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Doc. No.	Def. No.	Pros. No.	Description	For Ident.	In Evidence
146	3609-A		Document on the Foreign Policy of Japan vis-a-vis Europe and America following withdrawal from the League of Nations (Middle of April 1933)	35362	
2938	3610		Certificate of non-availability of semi-official letter of Japanese Charge-d'Affaires INOUE and various telegrams	35374	
2918	3611		Affidavit of NOGUCHI, Yoshio	35376	
1280	3612		A supplementary personnel record of the defendant TOGO	35385	
1281	3613		Certificate of the Foreign Ministry showing the appointment of Ambassador TOGO's successor, General TATEKAWA, in September	35386	
2744	3614		Affidavit of NARITA, Katsushiro	35388	
2852	3614-A		Letter from NARITA, Katsushiro to Ambassador TOGO dated 6 December 1938	35393	

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of

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<u>Doc.</u>	<u>Def.</u>	<u>Pros.</u>	<u>Description</u>	<u>For Ident.</u>	<u>In Evidence</u>
<u>No.</u>	<u>No.</u>	<u>No.</u>			
2740	3615		Affidavit of YAMAJI, Akira		35407
2866	3616		Certificate of the Chief of the Personnel Section, Secretariat of the Foreign Minister re TOGO's absence from Tokyo and from his office at the time of Italy's entrance into the Anti- Comintern Pact		35416
2753	3617		Affidavit of KAMEYAMA, Kazuji		35417
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2669	3621		Affidavit of ITO, Nobufumi		35457
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Tuesday, 16 December 1947

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2
3 INTERNATIONAL MILITARY TRIBUNAL
4 FOR THE FAR EAST
5 Court House of the Tribunal
6 War Ministry Building
7 Tokyo, Japan

8 The Tribunal met, pursuant to adjournment,
9 at 0930.

10 Appearances:

11 For the Tribunal, all Members sitting, with
12 the exception of: HONORABLE JUSTICE LORD PATRICK,
13 Member from the United Kingdom of Great Britain, not
14 sitting from 1330 to 1600.

15 For the Prosecution Section, same as before.

16 For the Defense Section, same as before.

17 - - -

18 (English to Japanese and Japanese
19 to English interpretation was made by the
20 Language Section, IMTAFE.)

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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now in session.

3 THE PRESIDENT: All the accused are present
4 except MATSUI, who is represented by counsel. We have
5 a certificate from the prison surgeon of Sugamo certi-
6 fying he is ill and unable to attend the trial today.
7 The certificate will be recorded and filed.

8 Has that number been called yet?

9 CLERK OF THE COURT: Defense document 146
10 will receive exhibit No. 3609-A.

11 (Whereupon, the document above
12 referred to was marked defense exhibit
13 No. 3609-A and received in evidence.)

14 THE PRESIDENT: Major Blakeney.

15 MR. BLAKENEY: I propose at this time to
16 read from this document only excerpts concerning the
17 question of Russian relations, which will be the first
18 division of our evidence.

19 First, from section 6, The Soviet Union.

20 THE PRESIDENT: My attention has been drawn
21 to the fact that there is no representative of the
22 prosecution in court; there does not appear to be any.
23 There should be a representative of the prosecution at
24 all times because we never know when some serious
25 question may arise.

Major Blakeney.

1 MR. BLAKENEY: As I was saying, I will begin
2 reading on page 15, section (6) a.

3 THE PRESIDENT: Is there any explanation
4 of the prosecution's absence?

5 Mr. Sutton.

6 MR. SUTTON: I apologize to the Court for
7 being a little late in coming in this morning. We
8 were waiting for a document.

9 THE PRESIDENT: That must be avoided in the
10 future.

11 Major Blakeney.

12 MR. BLAKENEY: Section (6) a.

13 "The Soviet Union.

14 "a. Japanese-Soviet relations after the
15 resumption of diplomatic relations, especially the
16 Soviet attitude toward Japan."

17 From thence, I go to page 16, paragraph 2:

18 "Toward the Manchurian Incident the Soviet
19 Union maintained an attitude of neutrality and non-
20 interference. In view of Japan's neutral attitude at
21 the time of the Soviet-Chinese conflict over the issue
22 of the Chinese Eastern Railway, in 1929, the Soviet
23 attitude toward the Manchurian Incident was under-
24 standable. Moreover, the incident was at first

1 for a nonaggression pact with Japan is motivated by
2 its desire to secure the safety of its Far Eastern
3 territory from the increasing threat which it feels
4 since the Japanese advance into Manchuria."

5 I skip to page 17, paragraph 2, b.

6 "B. Reasons which necessitate an adjust-
7 ment of Japanese-Soviet Relations.

8 "To the extent that the Soviet Union strives
9 toward the world revolution a clash with Japan may
10 sooner or later be unavoidable and the Five-Year Plan
11 should be carefully watched."

12 Omitting the remainder of that paragraph and
13 commencing with the next:

14 "The course which Japan should follow is to
15 pursue effectively our Manchurian and Mongolian policy
16 on the one hand and to avoid friction and promote
17 friendly relationships with other powers on the other,
18 thereby making them understand the position of Japan
19 and Manchukuo in the Far East. As to our relations
20 with the Soviet Union, there are various issues that
21 are hard to solve, some involving directly or indirectly
22 fundamentals of relationship, and are likely to excite
23 the feelings of both nations, with unfavorable effects
24 on the peace of the Far East. We should therefore make
25 every effort in accordance with the general course of

1 restricted to southern Manchuria, which is outside
2 the Soviet sphere of influence. Even after our mili-
3 tary operations extended to northern Manchuria and
4 Soviet interests were evidently involved, Russia con-
5 tinued to maintain her neutral attitude. Furthermore,
6 her consent to our transporting troops by the Chinese
7 Eastern Railway; her refusal of the League of Nation's
8 request for cooperation of Soviet consular officials
9 in Manchuria with the Lytton Commission; her offer of
10 good offices in evacuating Japanese residents in
11 Manchouli through Soviet territory at the time of
12 the Su Ping-won Incident; her expression of consent
13 to the sale of the Chinese Eastern Railway to Japan;
14 and her rejection of the request of the League of
15 Nations to join its advisory council-- these, together
16 with the settlement of the question of fishery lots,
17 are facts which are worthy of note. This attitude of
18 the Soviet Union should properly be interpreted in the
19 light of the fact that its understanding of Japan's
20 power is much greater than that of other countries and
21 of the fact that, since incidents with foreign coun-
22 tries cannot be permitted to occur while that country
23 is busily occupied as she now is in internal construc-
24 tion activities, she is avoiding any actions which
25 might provoke Japan. The desire of the Soviet Union

1 for a nonaggression pact with Japan is motivated by
2 its desire to secure the safety of its Far Eastern
3 territory from the increasing threat which it feels
4 since the Japanese advance into Manchuria."

5 I skip to page 17, paragraph 2, b.

6 "B. Reasons which necessitate an adjust-
7 ment of Japanese-Soviet Relations.

8 "To the extent that the Soviet Union strives
9 toward the world revolution a clash with Japan may
10 sooner or later be unavoidable and the Five-Year Plan
11 should be carefully watched."

12 Omitting the remainder of that paragraph and
13 commencing with the next:

14 "The course which Japan should follow is to
15 pursue effectively our Manchurian and Mongolian policy
16 on the one hand and to avoid friction and promote
17 friendly relationships with other powers on the other,
18 thereby making them understand the position of Japan
19 and Manchukuo in the Far East. As to our relations
20 with the Soviet Union, there are various issues that
21 are hard to solve, some involving directly or indirectly
22 fundamentals of relationship, and are likely to excite
23 the feelings of both nations, with unfavorable effects
24 on the peace of the Far East. We should therefore make
25 every effort in accordance with the general course of

1 policy to promote friendly relations with her, and in
2 so doing we may be able to solve these pending issues.
3 It may even be possible to get Soviet Russia to
4 recognize Manchukuo, which is hardly to be expected of
any other powers for the moment.

5 "A review of Soviet-Japanese relations will
6 show that the Soviet Union feels a sense of insecurity
7 over its Far Eastern territory since the Manchurian
8 Incident. Especially after the Japanese Government,
9 in its reply to the Soviet proposal of a nonaggression
10 pact in December last year (1932), stated that such a
11 pact was still premature, the Soviet Government has
12 entertained apprehensions with regard to possible
13 Japanese military advance. That apprehension is to
14 be noted in the statements of such influential Soviet
15 leaders as Stalin and Voroshilov that danger to the
16 Soviet Union lies not so much in Western Europe as
17 it does in the Far East, especially Japan."

18 I omit the next paragraph, down to the sixth
19 line from the bottom thereof, commencing with the words,
20 "There are many . . ."

21 ". . . There are many difficult issues be-
22 tween the two countries and it cannot be expected that
23 they can be settled at one stroke. However, if things
24 are left as they are mutual distrust cannot be removed

1 offer of a nonaggression pact, shows that improvement
2 of Soviet-Japanese relations is desirable for the
3 betterment of our relationship with the United States."

4 I omit one paragraph.

5 "With regard to Britain, some people fear
6 that our friendly relationship with the Soviet Union
7 might cause trouble in our relationship with Britain
8 inasmuch as there are frictions between Britain and
9 the Soviet, such as Communist activities in Britain and
10 the Indian independence problem. However, it is clear
11 that the Soviet-Japanese accord will not extend to
12 such a point that the two nations in combination would
13 oppose Britain. It is not, therefore, reasonable for
14 Britain to entertain any apprehensions over the im-
15 provement of Soviet-Japanese relations. For that
16 matter, the Franco-Soviet nonaggression pact has not
17 created any problem in Anglo-French relations.
18

19 "Improvement of Soviet-Japanese relations
20 will have a beneficial influence on third powers by
21 proving our peaceful intentions, and thus contribute
22 to the betterment of the relations with the United
23 States, Great Britain and other countries which have
24 existed since our withdrawal from the League."

25 I omit the remainder of the paragraph and
go to the next on page 20:

and the relations of the countries might come to be
1 dominated by our domestic Communism problem or by the
2 development of the Soviet-Manchukuoan problems."

3 Omitting the next paragraph and resuming
4 with the following one:

5 "The circumstances being what they are, we
6 should endeavor mainly to develop Manchukuo, and
7 with regard to the Soviet Union we should watch the
8 progress of the Five-Year Plan and the Soviet attitude
9 toward other countries, and endeavoring to avoid un-
10 necessary friction with Russia, establish the relations
11 of a good neighbor with her, thus contributing to
12 settlement of all problems pending with the Soviet Union.

13 "As to the possible influence of the improve-
14 ment of the Soviet-Japanese relationship on third
15 powers, there is no reason that it should disturb
16 American-Japanese relations -- inasmuch as America
17 (it was clearly illustrated at the time of the dis-
18 patch of troops to Siberia) does not want Japan to
19 dominate Siberia, on the one hand, and is not pleased
20 to see Soviet Communism firmly established, on the
21 other -- though of course she may be concerned if the
22 Soviet-Japanese relationship becomes too close. The
23 fact that some in America suspect Japan of intentions
24 of aggression, by reason of her refusal of the Soviet

1 offer of a nonaggression pact, shows that improvement
2 of Soviet-Japanese relations is desirable for the
3 betterment of our relationship with the United States."

4 I omit one paragraph.

5 "With regard to Britain, some people fear
6 that our friendly relationship with the Soviet Union
7 might cause trouble in our relationship with Britain
8 inasmuch as there are frictions between Britain and
9 the Soviet, such as Communist activities in Britain and
10 the Indian independence problem. However, it is clear
11 that the Soviet-Japanese accord will not extend to
12 such a point that the two nations in combination would
13 oppose Britain. It is not, therefore, reasonable for
14 Britain to entertain any apprehensions over the im-
15 provement of Soviet-Japanese relations. For that
16 matter, the Franco-Soviet nonaggression pact has not
17 created any problem in Anglo-French relations.

18 "Improvement of Soviet-Japanese relations
19 will have a beneficial influence on third powers by
20 proving our peaceful intentions, and thus contribute
21 to the betterment of the relations with the United
22 States, Great Britain and other countries which have
23 existed since our withdrawal from the League."

24 I omit the remainder of the paragraph and
25 go to the next on page 20:

1 "Therefore, it is by all means advisable
2 that we make earnest efforts to improve our relations
3 with the Soviet Union.
4

5 "c) A concrete program for the improvement
6 of Japanese-Soviet relations.

7 "Of all the concrete measures for the im-
8 provement of Japanese-Soviet relations, that most
9 desired by the Soviet Union is a nonaggression pact.
10 There are pros and cons on the question in Japan."

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1 I shall omit from here to page 23 the discus-
2 sion of the pros and cons. Commencing, then, with the
3 third full paragraph on page 23:

4 "For the reasons hereinbefore stated, there
5 are no reasons why such a pact should not be concluded.
6 It is recommended that the pact be concluded and that
7 thereafter we proceed with negotiations on the questions
8 of the recognition of Manchoukuo, the purchase of the
9 Chinese Eastern Railway, and pending issues relative
10 to our concessions in Northern Saghalien. If, however,
11 our present domestic situation does not permit of the
12 conclusion of such a pact, we should first of all en-
13 deavor to tranquilize the relations between the two
14 countries, and keep in close touch with Manchoukuo
15 with respect to her policy vis-a-vis the Soviet Union,
16 thereby solving the various pending issues between
17 Japan and Russia.

18 "In order to realize the aims indicated above,
19 it is recommended that in the economic sphere we con-
20 clude a trade agreement or a commercial treaty in order
21 to increase Japanese-Soviet trade and solve pending
22 economic problems, thus promoting economic relations
23 between the two countries. In the political sphere it
24 is recommended that effective measures be found to
25 prevent military clashes along the border regions

between Japan and Manchoukuo and the Soviet Union. In
1 this connection the problem of demarcation of the Soviet-
2 Manchoukuo border should be solved (see Note 1); a sys-
3 tem should be established by peaceful means for Soviet-
4 Manchoukuoan management of the Chinese Eastern Railway
5 on a basis of equality; and steps should be taken for
6 the purchase of Soviet rights and interests in that
7 railway (see Note 2); thereby eliminating all sources
8 of trouble between Manchoukuo and the Soviet Union.
9

"Note 1 -- The problem of demarcating the
10 boundary was pending even before the establishment of
11 Manchoukuo. Left unsettled, it is a source of trouble
12 over the question of border patrols and the regulation
13 of smuggling, and might become a threat to peaceful
14 relations. On the question of demarcation, the Soviet
15 Union gave its agreement in principle as early as 1924
16 in an agreement with China and the Mukden regime. Al-
17 though there may be difficulties, the question should
18 be solved as soon as possible.
19

"Note 2 -- The Chinese Eastern Railway was
20 built by Czarist Russia as an instrument for the ex-
21 ploitation of the Far East."
22

I omit most of the remainder of the paragraph,
23 down to line 7 from the end, commencing, "However..."
24
25 "However, since we cannot justifiably obtain

1 Russian interests in the railway by forcible measures,
2 it is only reasonable that we purchase their share in
3 it. It is true that the cost is great, but other means
4 such as force would raise the cost still higher inas-
5 much as it would mean the loss of international confi-
6 dence by Japan and Manchoukuo.

7 "B. Recommendations.

8 "Our relations with European and American
9 countries are as reviewed above. Since the Manchurian
10 Incident, various European and American countries have
11 charged Japan with having practically ignored her treaty
12 obligations and embarked on aggressive actions. It is
13 an undeniable fact that these countries are apprehensive
14 lest Japan should engage in such actions whenever an
15 opportunity is afforded. As a result, Japan has, since
16 the year before last, as much lost international confi-
17 dence as she has enhanced her military prestige. In
18 modern international society resort to armed force is
19 a matter of the utmost seriousness, especially among
20 the great powers, and every possible effort should be
21 made to avoid it. There are not a few instances in
22 history of the unjustifiable use of armed force's result-
23 ing in failure. We should not repeat acquisition in
24 violation of principle, then in reliance on the prin-
25 ciple insist upon retention of the gains. Respect for

1 truthfulness should be alike among nations as among
2 individuals, for it is manifest that when a nation for-
3 feits international confidence it is ultimately the
4 loser."

5 Omitting the remainder of that paragraph
6 and reading the second paragraph following:

7 "As mentioned above under A(6), the Soviet
8 Union at present not only is making efforts to avoid
9 conflict with us, but it is not in a position to apply
10 either military or economic pressure against us in the
11 near future. This is a point to which we should give
12 our attention in establishing our Soviet policy.

13 "In case it should become inevitable for us
14 to come to armed conflict with the Soviet, it is most
15 desirable to make a common front with Britain and
16 America. However, as it is clear that the Soviet is
17 making efforts to avoid such an eventuality, other
18 powers would not support Japan but would rather condemn
19 Japan as an aggressor. We should by all means avoid
20 any clash with the Soviet Union."

21 That concludes the reading for the time being.

22 I now offer in evidence defense document 2938,
23 being a certificate of the Foreign Ministry of the non-
24 existence in the official repository of certain docu-
25 ments to be referred to in subsequent evidence.

NOGUCHI

DIRECT

35,374

THE PRESIDENT: Admitted on the usual terms.

CLERK OF THE COURT: Defense document 2938
will receive exhibit No. 3610.

(Whereupon, the document above
referred to was marked defense exhibit
No. 3610 and received in evidence.)

MR. BLAKENEY: I shall not read the document,
but shall refer to it as occasion arises.

I now call as a witness, NOGUCHI, Yoshio,
whose affidavit is defense document 2918. There is
an erratum sheet with one correction in the translation
of this affidavit.

- - -

YOSHIO NOGUCHI, called as a witness on
behalf of the defense, being first duly sworn,
testified through Japanese interpreters as
follows:

DIRECT EXAMINATION

BY MR. BLAKENEY:

Q. Witness, please state your name and
address.

A. My name is NOGUCHI, Yoshio; my address,
51, 3-chome, Okusawa-machi, Setagaya.

MR. BLAKENEY: Let him be shown defense docu-
ment No. 2918.

NOGUCHI

DIRECT

35,375

(Whereupon, a document was handed to
the witness.)

Q Please examine that and state to the Tribunal
whether that is your affidavit, executed and sworn to
by you.

A This is my affidavit.

Q Are the contents thereof true and correct?

A Yes.

MR. BLAKENEY: I offer in evidence the affi-
davit, defense document No. 2918.

THE PRESIDENT: Mr. Chief of Counsel.

MR. KEENAN: If the Court please, the prose-
cution objects to paragraph 10 on page 3, on the ground
that it constitutes character evidence which, in the
understanding of the prosecution, is not admissible
in this trial.

MR. BLAKENEY: In answer, I should say that
inasmuch as this defendant was charged by the Soviet
Union with the commission of crimes against it while
Ambassador there, the statement of the Foreign Minister
of that country should be evidentiary of the fact of
whether he did commit such crimes or whether he was
believed to have committed such crimes.

THE PRESIDENT: Wasn't this type of evidence
admitted on behalf of the accused SHIGEMITSU, if I

1 read the transcript correctly?

2 MR. BLAKENEY: It was after full argument,
3 as I understand the matter.

4 THE PRESIDENT: I cannot distinguish the
5 type of evidence admitted on SHIGEMITSU's behalf from
6 this, but there may be a difference. I heard no argu-
7 ment about it. I was not here.

8 MR. BLAKENEY: This type of evidence also, I
9 should suggest, was admitted, I remember, in the case
10 of Mr. SHIGEMITSU on cross-examination of prosecution
11 witnesses: Baron SHIDEHARA, for example.

12 THE PRESIDENT: By a majority, the objection
13 is sustained and the paragraph rejected.

14 CLERK OF THE COURT: Defense document 2918
15 will receive exhibit No. 3611.

16 (Whereupon, the document above
17 referred to was marked defense exhibit
18 No. 3611 and received in evidence.)

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NOGUCHI

DIRECT

35,377

1 MR. BLAKENEY: I read the affidavit as
2 admitted, omitting the formal parts:

3 "1. I served as member of the staff of the
4 First Section of the European-American Bureau of the
5 Foreign Ministry from July 1925 to March 1926, during
6 which time Mr. TOGO was the section chief from July
7 1925 till the end of the year. When I served in the
8 First Section of the European-American (later European-
9 Asiatic) Bureau from January 1930 to October 1933 Mr.
10 TOGO was the director of the Bureau throughout the
11 period. While I was a secretary-interpreter of the
12 Japanese Embassy in Moscow from October 1939 to
13 November 1940 Mr. TOGO was Ambassador to the U.S.S.R.,
14 and I returned home about a month after Ambassador
15 TOGO was recalled by Foreign Minister MATSUOKA. While
16 I was in Moscow under Ambassador TOGO after October
17 1939 I served as interpreter of all the conversations
18 between Ambassador TOGO and Commissar Molotov following
19 the settlement of the Nomonhan Incident in September.
20 I served thereafter in the same capacity in the
21 European-Asiatic Bureau from December 1940 to February
22 1943, during which time Mr. TOGO was Foreign Minister
23 from October 1941 to September 1942. It was immediately
24 after Mr. TOGO became Foreign Minister for the second
25 time that I returned home from Bulgaria, where I had

NOGUCHI

DIRECT

35,378

been a secretary of the Legation, and was ordered to
1 serve in the Political Affairs Bureau, Mr. TOGO
2 remaining Foreign Minister till August 1945. During
3 these two tenures of Mr. TOGO's Foreign Ministership
4 I served as his interpreter for all conversations with
5 the Ambassador of the U.S.S.R. I therefore am familiar
6 with the negotiations which Mr. TOGO conducted with
7 the U.S.S.R. and with Mr. TOGO's opinion in connection
8 therewith.

"2. While Mr. TOGO was Ambassador to the
10 U.S.S.R., he seized the opportunity immediately after
11 the Nomonhan Incident, when Russian-Japanese relations
12 showed a favorable turn, further to improve the
13 relations between the two countries, and succeeded in
14 bringing about the solution of various pending problems
15 one after another. Among these the exchange of
16 prisoners of war of the Nomonhan Incident, the demarkation
17 of the Mongolian-Manchukuoan border, the settlement of
18 the final allocation of the payment for the Chinese
19 Eastern Railway, the negotiations concerning the
20 Russian-Japanese commercial treaty, the question of the
21 general settlement of border disputes, etc., were the
22 most important. As to the negotiations for the epoch-
23 making neutrality treaty between Japan and the USSR,
24 Mr. TOGO carried the negotiations all but to consummation.

NOGUCHI

DIRECT

35,379

"3. In conducting the negotiations with
1 the U.S.S.R., Mr. TOGO did not insist on the exclusive
2 interests of Japan only, but always maintained the
3 position that the interests of both parties should
4 mutually be respected. Whenever he found any instruction
5 from Tokyo excessive or improper he did not hesitate
6 to request the reconsideration of Tokyo, and he always
7 undertook negotiations after having fully examined the
8 facts underlying the issue in question. This attitude
9 on the part of Mr. TOGO caused him to win the confidence
10 of Commissar Molotov, and the conversations between
11 the two were always carried on in the most friendly
12 atmosphere. I have never worked so pleasantly as I
13 did in those days in Moscow.

"4. Commissar Molotov at that time was
15 concurrently Chairman of the Council of Commissars and
16 the Commissar for Foreign Affairs. It was indeed
17 unusual in the practice of the U.S.S.R. in those days
18 that Mr. Molotov accepted with hardly any exception
19 Mr. TOGO's requests for interviews in spite of the fact
20 that he was busily occupied with his official business
21 and habitually received him most promptly.

"5. In the all-night negotiations over the
23 modus vivendi of the fisheries problem, on the night
24 of 31 December 1939, Mr. Molotov insisted when the

NOGUCHI

DIRECT

35,380

question of the gold clause concerning the last
1 payment for the Chinese Eastern Railway, the
2 simultaneous settlement of which with the fishery
3 agreement the Soviet side had previously insisted upon,
4 came up, that the opinion of experts had to be
5 obtained inasmuch as the question was economic.
6 Ambassador TOGO, however, pointed out that there was
7 not time enough to obtain expert opinion, as the
8 agreement had to be reached during the year, and
9 requested that Mr. Molotov should accept the word of
10 the Ambassador that the Ambassador's proposal was not
11 disadvantageous for the U.S.S.R. either. Mr. Molotov
12 stated in reply that if the Ambassador gave so strong
13 an assurance he would rely on the Ambassador's word
14 and would immediately sign the document.

16 "6. Upon the conclusion of the fisheries
17 agreement referred to above in the early morning of 1
18 January after the all-night negotiations, Commissar
19 Molotov drank a toast, saying that he expressed his
20 respect for the efforts made by Ambassador TOGO, that
21 it had been his pleasure that he had been able to solve
22 the Nomonhan Incident with the cooperation of Ambassador
23 TOGO and that Russian-Japanese relations would become
24 more and more friendly in the coming year, thanks to
25 the efforts of Ambassador TOGO.

NOGUCHI

DIRECT

35,381

"7. It was Mr. TOGO's intention to establish
1 peaceful relations with the U.S.S.R., and he recommended
2 the conclusion of a non-aggression pact both by telegrams
3 and by sending a member of his staff to Tokyo. He
4 finally obtained instructions from the Government to
5 open the negotiation for the conclusion of a
6 neutrality pact, and made the following oral proposal
7 to Commissar Molotov in early July 1940.

"(1) The two contracting parties confirm that
9 the Basic Treaty between Japan and the USSR shall be the
10 basis of the relations between the two countries.

"The two contracting parties declare that they
13 will maintain peaceful and friendly relations, and will
14 respect each other's territorial integrity.

"(2) In case one of the two contracting parties,
16 in spite of her peaceful attitude, is attacked by a
17 third Power or Powers, the other party shall maintain
18 neutrality throughout the conflict.

"(3) The present agreement shall be effective
19 for five years.

"Commissar Molotov some days later agreed
22 in principle to the proposal, saying that it was in
23 substance a non-aggression pact, and communicated to
24 Ambassador TOGO in mid-August that the U.S.S.R. would
25 accept the proposal on condition that Paragraph 1 of

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Article 1 be deleted, proposing at the same time that
1 the concessions in northern Sakhalin should be terminated.
2 Mr. TOGO recommended to Tokyo that in the circumstances,
3 when it had become so difficult to execute the
4 concession rights, the Russian proposal should be
5 accepted and the proposed non-aggression pact be
6 brought to conclusion.
7

"8. However, Mr. MATSUOKA, who became Foreign
8 Minister in July 1940, at the time when the pact was
9 all but concluded, ordered Mr. TOGO to return home and
10 to suspend negotiations concerning the neutrality pact.
11 Mr. Molotov repeatedly inquired of Mr. TOGO, before
12 Mr. TOGO's departure, as to the intention of the Tokyo
13 Government concerning the neutrality pact, for the reason
14 that the sudden change of Ambassadors in the midst of
15 an important negotiation was incomprehensible and that
16 the new Ambassador, General TATEKAWA, had made a state-
17 ment in Hsingking on his way to Moscow that Japanese-
18 Russian relations should be restored to a clean slate.
19 Mr. TOGO endeavored to dispel the concern of the
20 Russian authorities by explaining that the previous
21 negotiations, although commenced on his own initiative,
22 had been conducted with full contact with the Government
23 and the change of the cabinet could not change the
24 policy concerning the neutrality pact, and that he himself
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would upon his return home do all he could to improve
1 Russian-Japanese relations.

"9. I recall Mr. TOGO's having told me that
3 the motive for his proposing a neutrality pact was to
4 take the opportunity of the settlement of the Nomonhan
5 Incident to establish a fundamentally peaceful
6 relationship between the two countries. I was acting
7 at that time half as interpreter and half as his
8 secretary. I recall his having told me that Japan should
9 not seek in the south anything beyond the promotion
10 of economic interests, for advance in the south would
11 necessarily cause a clash of Japan with the United States
12 and Britain. Mr. TOGO went to Berlin for a few days in
13 May 1940, but it was to be examined by a doctor there and
14 not for official business to see the Japanese Ambassador
15 there. This was the only trip to Germany that he made
16 during 1940.

"11. I will now turn to the time when Mr.
19 TOGO was Foreign Minister. When Mr. TOGO became Foreign
20 Minister in October 1941, Ambassador Smetanin often
21 communicated the requests of the U.S.S.R. concerning the
22 maintenance of neutrality between the two countries.
23 On these occasions Mr. TOGO suggested more than once
24 his desire to render good offices for peace between
25 Germany and the USSR. Especially on the occasion when

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Ambassador Smetanin was leaving for home in January
1 1942, Mr. TOGO entrusted to the Ambassador a message
2 to Commissar Molotov that if the U.S.S.R. should in
3 future come to entertain a desire for peace with
4 Germany he was ready at any time to render good offices
5 for mediation. At that time Mr. TOGO remarked that in
6 the circumstances when the whole world had become
7 involved in the war the relations between Japan and
8 the U.S.S.R. were like a shaft of sunlight in the
9 midst of a shower, and that it was his desire and
10 intention to extend this light to the whole world. I
11 recall that in the summer of 1942 Mr. TOGO complained
12 that the activities of the Japanese authorities abroad
13 were too passive at the moment when it was deemed
14 urgently necessary to bring about a general peace
15 through the Russo-German peace. When I called on Mr.
16 TOGO on the eve of my departure for Bulgaria in early
17 1943 and urged him to act for the mediation of Russo-
18 German peace; he spoke to me to the effect that he
19 deemed the Russo-German peace the most proper way to
20 bring about general peace and that he was willing to
21 work to that end if the Government would give him full
22 powers for action.

"12. I returned from Bulgaria in April 1945.
25 Mr. TOGO summoned me in May and told me of his intention

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of negotiations with the U.S.S.R. with the aim of
1 terminating the war. His intention materialized in
2 June as the conversations in Hakone between former
3 Premier HIROTA and Ambassador Malik, and I served as
4 interpreter of the conversations and liaison between
5 Mr. TOGO and Mr. HIROTA. Although the negotiations
6 ended in failure, it was because the war situation
7 had too far deteriorated to be saved through the
8 negotiations."

9 You may cross-examine.

10 THE PRESIDENT: Mr. Chief of Counsel.

11 MR. KEENAN: Mr. President, no cross-examination.

12 MR. BLAKENEY: I ask that the witness be
13 excused on the usual terms.

14 THE PRESIDENT: He is excused accordingly.

15 (Whereupon, the witness was excused.)

16 - - -
17 MR. BLAKENEY: Defense document No. 1280, a
18 supplementary personnel record of the defendant TOGO,
19 is offered in evidence as proof of his recall from the
20 position of Ambassador in Moscow in 1940.
21

22 THE PRESIDENT: Admitted on the usual terms.

23 CLERK OF THE COURT: Defense document 1280
24 will receive exhibit No. 3612.
25

(Whereupon, the document above referred to

1 was marked defense exhibit No. 3612 and
2 received in evidence.)

3 MR. BLAKENEY: Without reading the document
4 I state only that it shows that he was ordered home
5 on the 29th of August and actually left Moscow on the
20th of October 1940.

6 Defense document No. 1281, a certificate of
7 the Foreign Ministry, showing the appointment of
8 Ambassador TOGO's successor General TATEKAWA in
9 September is offered in evidence.

10 THE PRESIDENT: Admitted on the usual terms.

11 CLERK OF THE COURT: Defense document 1281
12 will receive exhibit No. 3613.

13 (Whereupon, the document above re-
14 ferred to was marked defense exhibit No. 3613
15 and received in evidence.)

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1 MR. BLAKENEY: I shall not read it, having already
2 stated the substance of it.

3 I call as my next witness NARITA Katsushiro,
4 whose affidavit is defense document 2744.

5 K A T S U S H I R O N A R I T A , called as a witness
6 on behalf of the defense, being first duly sworn,
7 testified through Japanese interpreters as
8 follows:

10 DIRECT EXAMINATION

11 BY MR. BLAKENEY:

12 Q Please state your name, Mr. Witness.

13 A NARITA, Katsushiro.

14 Q Your residence and occupation.

15 A My address is No. 171, 1-chome, Ogurihara,
16 Funabashi City, Chiba Prefecture. My occupation is
17 that of a secretary in the Foreign Office.

18 MR. BLAKENEY: I ask that he be shown defense
19 document No. 2744.

20 (Whereupon, a document was handed
21 to the witness.)

22 Q Please examine that and state whether that is
23 your affidavit, signed and executed by you.

24 A Yes, it is.

25 Q Are the contents thereof, to the best of your

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knowledge, true and correct?

1 A Yes.

2 MR. BLAKENEY: With the exception of the
3 first two sentences of paragraph 5 thereof, I offer
4 in evidence the affidavit, defense document No. 2744.

5 THE PRESIDENT: Admitted on the usual terms.

6 CLERK OF THE COURT: Defense document 2744
7 will receive exhibit No. 3614.

8 (Whereupon, the document above
9 referred to was marked defense exhibit
10 No. 3614 and received in evidence.)

11 MR. BLAKENEY: I read the affidavit which,
12 omitting the formal parts, is as follows:

13 "1. I entered the service of the Japanese
14 Foreign Ministry in 1928. I served in the First Sec-
15 tion of the European-Asiatic Bureau from June 1934 to
16 January 1938; in Berlin as Third Secretary of the
17 Embassy, March-October 1938; in Hsingking, as Third
18 and Second Secretary of the Embassy, from December 1938
19 to August 1940; as senior secretary, later Chief, of
20 the First Section, European-Asiatic Bureau, from
21 August 1940 to November 1942; and as Chief of the
22 Personnel Section from November 1942 to August 1945.

23 "2. For something over three years of the
24 time of my first service in the First Section of the

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1 European-Asiatic Bureau of the Ministry the Bureau
2 Director was Mr. TOGO Shigenori. It was a period when
3 there were numerous Japanese-Soviet problems, mostly
4 growing out of the development of Manchukuo, such as
5 boundary disputes and other disputes with Soviet
6 nationals in Manchukuo and agitation against the Red
7 menace. Mr. TOGO's practice as bureau director in
8 charge of Soviet affairs was to protest stiffly against
9 any Soviet delicts, but to be equally stern in repre-
10 manding those on the Japanese side who were guilty of
11 improper practices. For example, we used to get many
12 requests from the Ministry of War or the Ambassador in
13 Hsingking (who was concurrently the Commander-in-Chief
14 of the Kwantung Army) to make protests to the U.S.S.R.
15 concerning border incidents reported by the Kwantung
16 Army. These requests, which came either as telegrams
17 direct from Hsingking or in the form of copies of
18 telegrams to the War Ministry forwarded to us by them,
19 were routed through the First Section of the European-
20 Asiatic Bureau, which had to do with Russian affairs;
21 they were quite numerous, many of them were seen and
22 managed by me, many were not. Requests were sometimes
23 made orally by the War Ministry to officials in our
24 section. Bureau Director TOGO frequently said that
25 before making the protests further investigation would

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have to be made to give assurance that the fault was
1 not on the Japanese side, and in such cases had instruc-
2 tions for such further investigation sent to the Hsing-
3 king Fmbassy or requests therefor sent to the War
4 Ministry. In such cases he often suggested to the War
5 Ministry and the Kwantung Army that they mend their
6 ways and refrain from committing wrongs themselves, if
7 they wished the Japanese position to be strong when
8 there were cases of Soviet faults. Mr. TOGO also
9 issued many admonitions to the military authorities,
10 through the Embassy at Hsingking or the War Ministry,
11 concerning other cases of Soviet-Japanese or Soviet-
12 Manchukuoan disputes.

"3. Our business men operating concessions
14 in Sakhalin, and Japanese fishermen operating in
15 Soviet waters under the fisheries agreements, made
16 frequent complaints to the Foreign Ministry, through
17 the First Section of the European-Asiatic Bureau, of
18 Soviet oppression. Mr. TOGO often told them in my
19 presence that there was fault on their side, too;
20 that they were exaggerating their cases or concealing
21 some of the facts, were making undue profits out of
22 their own laborers, and in general were not devoting
23 their sincerest efforts to compliance with their con-
24 cession contracts or fisheries rights. On these

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1 occasions when they asked the Foreign Ministry to
2 take a strong stand against the U.S.S.R. Mr. TOGO was
3 accustomed to tell them that they were attempting to
4 depend unduly on governmental protection, and that only
5 when the U.S.S.R. had acted in a manner clearly illegal
6 could they expect the government to help them.

7 "4. During the period mentioned above the
8 conclusion of the Anti-Comintern Pact had a cooling
9 effect on Soviet-Japanese relations. Although it was
10 the European-Asiatic Bureau, headed by Mr. TOGO, which
11 under the Government's decision of the policy of enter-
12 ing into such a pact had to manage the Foreign Mini-
13 stry's work in connection with its conclusion, I heard
14 at that time that Mr. TOGO's opinion was that the con-
15 clusion of a political agreement for the purpose of
16 coping with an ideology was meaningless.

17 "5. . . . Ambassador TOGO was strongly
18 opposed to the strengthening of the Anti-Comintern
19 Pact, or anything in the nature of a German-Japanese-
20 Italian alliance, and immediately upon learning of the
21 negotiations which were in progress he presented to
22 the Foreign Minister his views to that effect. His
23 opinion as I then learned it, from his dispatches to
24 the Foreign Minister and his explanations to me and
25 other members of the staff, was that the Nazi foreign

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1 policy would sooner or later bring Germany into con-
2 flict with the Soviet Union, Great Britain, France and
3 other countries, and that such a pact of alliance with
4 Germany and Italy not only would not contribute to the
5 solution of the China Affair but would involve Japan
6 in the turmoil of Europe and eventually of the world.
7 Ambassador TOGO's attitude toward the Japanese-German
8 alliance, as well as his unresponsiveness to German
9 suggestions of closer co-operation in economic matters
10 relating to China, led to deterioration of his relations
11 with Foreign Minister Ribbentrop as well as to intens-
12 ified opposition from our military and naval circles,
13 to whom his continued presence in Berlin appeared as
14 an obstacle to realization of their desire of closer
15 German-Japanese collaboration.

16 "6. It was this attitude of Ambassador TOGO's
17 and this opposition from military circles which, as I
18 learned upon my return to Japan in November 1938, had
19 brought about his removal from Berlin to Moscow. What
20 I learned at that time I reported to Mr. TOGO in a
21 letter of 6 December 1938, which I have been shown and
22 can identify as defense document No. 2582," which I
23 wish to offer in evidence at this point.

24 I should like to exclude one sentence in the
25 third paragraph, nine lines from the end, commencing,

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"OSHIMA," and ending, "offered."

1 THE PRESIDENT: Admitted on the usual terms.

2 CLERK OF THE COURT: Defense document 2852
3 will receive exhibit No. 3614-A.

4 (Whereupon, the document above
5 referred to was marked defense exhibit
6 No. 3614-A and received in evidence.)

7 MR. BLAKENEY: I shall read the first three
8 paragraphs of the letter:

9 "To His Excellency Ambassador TOGO:

10 "I am pleased to have been informed that Your
11 Excellency is actively working in the Russian capital
12 in spite of the severely cold weather. I arrived at
13 Tokyo on 24 November, and after staying for about ten
14 days I am leaving here today for Hsingking.

15 "While I was in Tokyo I was informed from the
16 most trustworthy sources to the following effect with
17 regard to the transfer of Ambassadors.

18 "The choice of the Ambassadors to Britain was
19 the most difficult, and Mr. UGAKI said that it would
20 be very good if Mr. TOGO should go to London, but that
21 the trouble was that if Mr. TOGO should do so the
22 problem would necessarily arise of promoting OSHIMA
23 to the Ambassadorship. When the Army started to work
24 for transferring the Ambassador in Berlin, Mr. UGAKI

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1 is said to have seen no necessity for the transfer be-
2 cause the Ambassador at that time had not failed in
3 any way whatsoever. However, telegrams of malicious
4 propaganda were sent from Major-General KASAHARA and
5 Naval Attaché KOJIMA, stating, 'Ambassador TOGO is
6 extremely unpopular with the German authorities, and
7 such high officials as Ribbentrop pay no attention to
8 Ambassador TOGO' and 'At the time of the Czechoslo-
9 vakian problem all the Ambassadors of the friendly
10 nations went to Munich, but Ambassador TOGO alone did
11 not.'"

12 Omitting the next sentence:

13 Moreover, it began to be urged that OSHIMA
14 should be used for the 'negotiations,' and some young
15 officials of the Foreign Office responded to this. The
16 pressure of the military has thus prevailed. It seems,
17 therefore, that the telegrams sent from Berlin point-
18 ing out the disqualification of OSHIMA have hardly been
19 utilized by the Foreign Office authorities."

21 I read only that much; and returning to the
22 affidavit:

23 I can add nothing more to that recital ex-
24 cept to say that my information came from the Director
25 of the European-Asiatic Bureau of the Foreign Ministry,
 who was familiar with the matter.

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"7. As Chief of the First Section of the European-Asiatic Bureau during Mr. TOGO's first term as Foreign Minister I was familiar with his attitude toward the U.S.S.R., owing to my official connection with matters involving Japanese-Soviet relations.

From the time that he assumed office Mr. TOGO worked assiduously for the strict and faithful observance, by both parties, of the neutrality then prevailing between Japan and the Soviet Union. Thus on 22 November 1941 the Foreign Minister called in the Soviet Ambassador, Smetanin, and reminded him that on 5 and 13 August the Ambassador had had conversations with Admiral TOYODA, the then Foreign Minister, at which time he had given the assurance that the U.S.S.R. would remain faithful to the Neutrality Pact and would grant no military bases on Soviet soil to foreign powers.

Mr. TOGO then asked Mr. Smetanin to confirm that that policy of the Soviet Union remained unchanged, and that the Neutrality Pact would continue to be for the U.S.S.R., as well as for Japan, the foundation of relations between the two countries. On 1 December Mr. Smetanin gave, 'by order of the Soviet Government,' the assurance requested; and again on 6 December, 'by order of Foreign Minister Molotov,' he reaffirmed that the Neutrality Pact formed the basis of the Soviet

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Union's policy toward Japan.

"8. During the period from the outbreak of the Pacific War to the beginning of September 1942, there were several questions in connection with the navigation of Soviet vessels, etc. Our Navy had established the so-called 'sea-defense zones' out of the necessity for coast defense, and decided to restrict, to a certain extent, the navigation in these areas of general craft and to give certain advices concerning the navigation of foreign vessels through specified areas. The Foreign Ministry took the step, on such occasions, of notifying the Soviet Embassy at Tokyo beforehand, in compliance with the request of the Navy Ministry, of the measures to be taken by the Japanese Navy in this connection, and, when there arose questions such as detention of a Soviet vessel, made efforts for their speedy settlement through release or some other means.

"Some Soviet vessels were damaged, and some even sank, in areas where there were hostilities. On all such occasions, the Foreign Ministry did its utmost to accord, regardless of the causes of the incidents, all facilities possible for the protection or the repatriation of the crews, as well as for other means of settlement.

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"9. Throughout Mr. TOGO's second term as
1 Foreign Minister I was Chief of the Foreign Ministry's
2 Personnel Section. During this time military circles
3 intimated the desirability of removing our ambassador
4 to the U.S.S.R., Mr. SATO Naotake, who was alleged to
5 be 'insufficiently positive' in his attitude toward
6 the Soviet Union and the war. I brought up the ques-
7 tion with Mr. TOGO, but he told me that if Ambassador
8 SATO were removed from the U.S.S.R. it would be to a
9 post in Europe where he would be able to get in touch
10 with the Governments of the United States and Great
11 Britain with a view to ending the war. With this
12 explanation he told me to study the question of the
13 possibility of the appointing as minister one who was
14 then serving as ambassador, having in mind that the
15 post to which Ambassador SATO would have had to be
16 sent would have been Sweden, Switzerland or the
17 Vatican. Soon thereafter I made a report to him on
18 this subject. These discussions were held soon after
19 Foreign Minister TOGO took office -- in April of 1945,
20 I think -- but for some reason nothing further came of
21 the idea, principally because soon afterward projects
22 for ending the war through the intermediation of the
23 U.S.S.R. were set in motion.
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ing a certain grade of award.

"11. In Mr. TOGO's case, the Board of Decorations agreed, according to the first standard, that his services in the negotiation of the truce of Nomonhan deserved the reception of an award as the Foreign Ministry had recommended. I remember that he had already been put in the category of those who deserved the bestowal of decorations, according to the second standard, for the fact that he had successively held, during the period subjected to the examination -- that is, the period from 7 July 1937 to 29 April 1940 -- the most important posts other than those in China, such as Director of the Bureau of European-Asiatic Affairs, Ambassador to Germany and Ambassador to the Soviet Union.

"As for the Grand Cordon of the Rising Sun, this is not the highest decoration. Neither was it bestowed upon Mr. TOGO for any special reason. It was only because of the fact that he had already been decorated with the First Class Order of the Sacred Treasure on the occasion of the periodical awards of May 1941, prior to the final decision on the awards in connection with services during the period of the China Affair, and he was awarded the next higher decoration in grade, that is, the Grand Cordon of the Rising Sun."

You may cross-examine.

CROSS-EXAMINATION

1 BY MR. SUTTON:

2 Q When you arrived in Berlin in March 1938
3 did you learn that the Japanese Military Attaché,
4 General OSHIMA, was working for the strengthening
5 of the Anti-Comintern Pact?

6 MR. CUNNINGHAM: We object to that for the
7 reason that that is the line that was eliminated
8 from the affidavit in order to avoid a lengthy cross-
9 examination upon that subject.

10 THE PRESIDENT: That does not make the cross-
11 examination inadmissible. The defense cannot control
12 the cross-examination in that way.

13 14 The objection is overruled and the question
15 allowed.

16 A If by when I arrived in Berlin you mean on
17 the very day that I arrived in Berlin, your question
18 is somewhat wrong, because I meant that it was after
19 sometime had elapsed after my arrival in Berlin that
20 I learned of this.

21 Q When did you learn of this?

22 A Sometime in March.

23 Q Is it not a fact that the Military Attaché,
24 OSHIMA, was at the time negotiating directly with
25 Foreign Minister Ribbentrop without informing Ambassa-

1 dor TOGO?

2 A That is true.

3 Q You wrote TOGO on 6 December 1938, exhibit
4 3614-A, concerning the telegrams from Major General
5 KASAHARA and Naval Attache KOJIMA. Did these tele-
6 grams contain the following statement?

7 "OSHIMA is so popular that he went to Munich
8 in the private plane of Ribbentrop, which the latter
9 specially offered."

10 THE PRESIDENT: Mr. Cunningham.

11 MR. CUNNINGHAM: If your Honor please, this
12 question is beyond the scope of the affidavit. We
13 also ask that this paragraph of the affidavit be
14 eliminated because it was immaterial to any issue in-
15 volved in the case of TOGO.

16 THE PRESIDENT: In the documents as they
17 stand there is still a reference to the accused
18 OSHIMA which, in my judgment, would have permitted
19 this cross-examination.

20 MR. CUNNINGHAM: May I finish my objection?

21 The second point is that the case of OSHIMA
22 has been closed, and unless this has a very direct
23 bearing upon the case of TOGO, it seems to be im-
24 material and highly unfair that it should be reopened
25 in the case of one of the other defendants, creating

1 new issues.

2 THE PRESIDENT: This point has already been
3 raised, argued, and decided counter to your submission.

4 MR. CUNNINGHAM: "Well, it seems as though
5 this objection would alleviate reopening and reargu-
6 ing a great many new issues which will come up in the
7 matter if we can confine the issues to the case
8 involving TOGO, and not retry the case of OSHIMA.

9 THE PRESIDENT: The objection is overruled
10 and the question allowed.

11 A I didn't read the telegram myself. I only heard
12 from a reliable source in the Foreign Office that
13 there was a telegram to that effect.

14 MR. SUTTON: That concludes the cross-examina-
15 tion.

16 MR. SHIMANOUCHI: In view of the prosecu-
17 tor's cross-examination, I should like to conduct
18 cross-examination on behalf of the defendant OSHIMA.

19 THE PRESIDENT: You are entitled to do so.

20 CROSS-EXAMINATION (Continued)

21 BY MR. SHIMANOUCHI:

22 Q Do you know of the fact that Major General
23 KASAHARA returned from Berlin to Tokyo in connection
24 with this matter of strengthening the Anti-Comintern
25 Pact?

A Yes, I do.

1 Q When was this?

2 A I think Major General KASAHARA left Berlin
3 in July, 1938.

4 Q Have you ever heard from the Foreign Office
5 of Ambassador TOGO's opinions in connection with the
6 proposed treaty between Japan, Germany, and Italy?

7 Correction: Have you ever heard in the
8 Foreign Office -- Have you ever heard that the Foreign
9 Office made inquiry as to Ambassador TOGO's opinion
10 in regard to the Tripartite -- Japan, German, and
11 Italian negotiations?

12 THE MONITOR: That should be changed to
13 "Japan-Germany-Italy treaty."

14 THE PRESIDENT: I think you had better make
15 another attempt to make that clear after the recess.

16 We will recess for fifteen minutes.

17 (Whereupon, at 1045, a recess
18 was taken until 1100, after which the
19 proceedings were resumed as follows:)

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MARSHAL OF THE COURT: The International
Military Tribunal for the Far East is now resumed.

THE INTERPRETER: Correction on the previous
question: Did the Foreign Office send any inquiries
to Ambassador TOGO regarding his opinion on the pro-
posed treaty between Japan, Germany and Italy?

THE WITNESS: I do not remember of any such
inquiries if that was made.

BY MR. SHIMANOUCHI (Continued):

Q You state that in March 1938 you learned
that General OSHIMA was working for the strengthening
of the Anti-Comintern Pact. Whom did you hear this
from?

A I heard it from my colleagues in the Embassy.

Q Where?

A At Berlin.

Q Did you make sure whether OSHIMA was actually
conducting such negotiations with the Germans in
March?

A I myself never made sure of that.

Q After hearing this report did you ever talk
either with Ambassador TOGO or with General OSHIMA on
this matter?

A I have never talked directly with Attache
OSHIMA nor Ambassador TOGO.

NARITA

CROSS
REDIRECT

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1 Q OSHIMA states that it was from around July
2 that he began talks with Ribbentrop on this matter.
3 What do you think of this?

4 A There are definite facts that OSHIMA did
5 talk this matter in July, 1938.

6 THE MONITOR: Just "July"; delete the year.

7 Q Now, regarding these purported conversations
8 that were carried on in March, do you know what kind
9 of conversations were actually being held, if they
10 were being held at all, between OSHIMA and Ribbentrop?

11 A No, I did not know of that.

12 MR. SHIMANOUCHI: That is all, your Honor.

13 MR. BLAKENEY: By leave of the Tribunal I
14 should like to put one additional question which I
15 overlooked arising from the striking of part of the
16 affidavit.

17 . THE PRESIDENT: One question only, is it?

18 MR. BLAKENEY: Yes, sir.

19 THE PRESIDENT: I think you have leave. It
20 is given grudgingly.

21 MR. BLAKENEY: Thank you.

22 REDIRECT EXAMINATION

23 BY MR. BLAKENEY:

24 Q Mr. Witness, the matters referred to in
25 paragraph 5 of your affidavit, are those matters

NARITA
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REDIRECT
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1 occurring during your service in the Berlin Embassy
2 after March 1938?

3 A Yes.

4 MR. BLAKENEY: Thank you.

5 I ask that the witness be excused on the
6 regular terms.

7 THE PRESIDENT: He is excused accordingly.

8 (Whereupon, the witness was excused.)

9 MR. BLAKENEY: I call as the next witness
10 YAMAJI, Akira, whose testimony is embodied in defense
11 document No. 2749. I might say that the documents
12 referred to in paragraphs 2 and 5 of his affidavit
13 are items 1 to 4 of exhibit No. 3610.

14 THE PRESIDENT: Why are you passing over
15 2753, Major Blakeney?

16 MR. BLAKENEY: I thought the order might be
17 improved, your Honor.

18 - - -

19 AKIRA YAMAJI, called as a witness on behalf
20 of the defense, being first duly sworn, testified
21 through Japanese interpreters as follows:

22 DIRECT EXAMINATION

23 BY MR. BLAKENEY:

24 Q Mr. Witness, please state your name and
25 residence.

YAMAJI

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1 A My name is YAMAJI, Akira; my address is 1271
2 Sanjutcho, Chosa-cho, Aira-gun, Kagoshima Prefecture.

3 MR. BLAKENEY: I ask that he be handed
4 defense document No. 2749.

5 (Whereupon, a document was handed to
6 the witness.)

7 Q I ask you, Mr. Witness, to examine that and
8 state whether it is your affidavit, executed and
9 sworn to by you.

10 A This is unquestionably mine.

11 Q Are the contents thereof true and correct
12 to the best of your knowledge?

13 A They are true and correct.

14 MR. BLAKENEY: I offer in evidence the
15 affidavit, defense document No. 2749.

16 THE PRESIDENT: Admitted on the usual terms.

17 CLERK OF THE COURT: Defense document 2749
18 will receive exhibit No. 3615.

19 (Whereupon, the document above
20 referred to was marked defense exhibit
21 No. 3615 and received in evidence.)

22 MR. BLAKENEY: I have two corrections to
23 mention in the English version of this affidavit.
24 First, on page 1, paragraph 2, line 6, for the words,
25 "the German Government," read "the German side"; and

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on page 3, paragraph 5, line 11, for the words,
1 "negotiations made no progress," please read
2 "negotiations were not commenced."

3 With those corrections I read the affidavit,
4 omitting the formal parts:

5 "1. I entered the Foreign Ministry in 1922,
6 and served as Minister to Bulgaria from 1941 to
7 1945, retiring from the Foreign Ministry in March
8 1946. In April 1934 I was assigned, as a junior
9 secretary, to the 2d Section of the Bureau of
10 European-American Affairs, and in September 1936
11 was appointed Chief of the 2d Section, which was in
12 charge of diplomatic relations with Britain, France,
13 Germany, Italy and other European countries, remaining
14 in that office until April 1938. During the period
15 from April 1934 to October 1937 the Director of the
16 European-American (later reorganized as the European-
17 Asiatic Bureau was TOGO Shigenori.

18 "2. At about the beginning of February 1936,
19 the Japanese Foreign Ministry received a semi-
20 official report, addressed to the Vice-Minister,
21 from Councillor INOUE, the Charge d'Affaires of the
22 Embassy at Berlin, to the effect that the military
23 attache of the Embassy at Berlin was informally
24 carrying on political negotiations with the German

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side. Soon afterward, in April of the same year,
1 Mr. ARITA Hachiro was appointed Foreign Minister.
2 Shortly after that Foreign Minister ARITA told
3 Ambassador MUSHAKOJI, who was then home on furlough
4 and was leaving Tokyo to go back to his post in
5 Berlin, that it was considered proper, in the light
6 of the circumstances, to conclude some political
7 agreement between Japan and Germany, and that he
8 wished the Ambassador to keep that in mind and make
9 necessary investigations in Berlin. And in May of
10 the same year, when Ambassador MUSHAKOJI was presumed
11 to have arrived at his post in Berlin, the Foreign
12 Minister cabled instructions of the same import,
13 requesting the Ambassador to sound out the German
14 intention in this connection. In July, a telegram
15 from Ambassador MUSHAKOJI reported that a plan of
16 agreement had been submitted by von Ribbentrop, con-
17 taining stipulations for an Anti-Comintern Pact and
18 measures of cooperation against the Soviet Union in
19 this connection.
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"3. At that time, I recall that Director
1 TOGO told me that he was against making any inter-
2 national agreement on the basis of ideologies, because
3 that would only result in the repetition of the fail-
4 ure of the Holy Alliance and that therefore he was
5 against a Japanese-German anti-Comintern Pact. The
6 Cabinet members concerned, however, supported the con-
7 clusion of the anti-Comintern Pact, and a mere bureau
8 director such as Mr. TOGO could do nothing but to
9 carry out their policies. But he paid scrupulous
10 attention so that damage to diplomatic relations with
11 the Soviet Union and Great Britain might be avoided,
12 that the matter might produce the least possible un-
13 favorable reaction on the part of third Powers, and
14 also that the cooperation between Japan and Germany
15 to be provided for in the Pact might not exceed the
16 limit of Japan's true necessity. For this purpose he
17 made all possible efforts as stated below.

"4. At the joint conference between the
19 Foreign and the War Ministries at that time, Director
20 TOGO maintained, with Foreign minister ARITA, that it
21 was absolutely necessary for entering into the Anti-
22 Comintern Pact with Germany to conclude a political
23 agreement with Britain, who had important interests in
24 various areas of the world and especially deep concern

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1 in Chinese problems. He succeeded in bearing down the
2 strong objections on the part of the military and per-
3 suading them to acceptance of the above condition.

4 "Further, in negotiating with the German side,
5 Director TOGO had the Japanese Ambassador at Berlin
6 request the following amendments, in phraseology as
7 well as in substance, of the German draft of the Anti-
8 Comintern Pact, and achieved his object. Though I
9 cannot give the original German draft as it cannot be
10 found, amendment was made to the following effect:

11 "A) The propagandistic words in the original
12 German draft, especially the Hitlerian expressions
13 found in the preamble, were toned down by the Japanese
14 request;

15 "B) The text of the Pact was made as business-
16 like as possible, by limiting the scope of cooperation
17 to the exchange of information concerning the de-
18 structive activities of the Communist International and
19 exchange of opinions concerning the counter-measures
20 to be taken against them.

21 "C) The term of validity was reduced from
22 10 years to 5.

23 "The efforts of Director TOGO also succeeded
24 in effecting amendment of the draft of the Annexed
25 Agreement in the following points:

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"A) The too-comprehensive condition of the
1 first article of the German draft -- to the effect
2 that it was to become operative 'in case either of the
3 two participants became an object of attack or threat
4 of attack' -- was amended to apply, as in the final
5 pact, only in the event of either of the participants'
6 becoming 'the object of an unprovoked attack or threat
7 of attack.'

"B) Many exceptions were made from the
9 second article of the German draft, which provided
10 that, in case either of the two participants wanted
11 to conclude with the Soviet Union any political agree-
12 ment which was inconsistent with the spirit of the
13 Anti-Comintern Pact, it must obtain the approval of
14 the other beforehand. The majority of the political
15 agreements between Japan and the Soviet Union were
16 made exceptions to the application of the present
17 Article, as it was decided that such approval was un-
18 necessary in connection with the agreements concerning
19 the fishing rights and other concessions and the
20 Soviet-Manchoukuo boundaries problems which were pend-
21 ing between the Governments of Japan and the Soviet
22 Union. The present Article was in effect almost
23 mutilated, so far as concerns any limitations on Japan-
24 ese action.

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"5. With respect to Japan's relations with Britain, Mr. TOGO had often told me that he cherished the firm belief that Anglo-Japanese relations should be smoothed by concluding an agreement with Britain, which had serious interests in China, thus improving also relations with the United States and maintaining the peace of the world. Because of this belief, he told me, he maintained that the conclusion of an agreement with Britain should be a condition for the execution of the Japanese-German Anti-Comintern Pact. Conditions at the time of signature of the Anti-Comintern Pact were unfavorable to obtaining British agreement, and negotiations were not commenced. But Mr. TOGO did not give up hope. He made up his mind to resume the negotiations with Britain in the spring of 1937, persuaded the Foreign Ministry authorities in charge of China affairs, as well as the higher officials, and succeeded in inducing the military into agreement. The plan of an Anglo-Japanese Pact, with respect for the British concessions in China as its substance, was thus completed, and instructions were given to Ambassador YOSHIDA at London to open negotiations with the British Government upon the basis of it. But time was consumed by various requests on the part of Ambassador YOSHIDA, and the negotiations had hardly been

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opened when the China Affair broke out. All the efforts
1 of Mr. TOGO were thus brought to nothing, to our great
2 regret."

3 I have a few additional questions to put to
4 this witness, with permission.

5 Q Mr. Witness, how did the Japanese-Germany-
6 Italian Anti-Comintern Pact of the 6th of November,
7 1937 come to be concluded?

8 A Towards the end of October, 1937 Ribbentrop
9 came to Rome; and, after conferring with Mussolini and
10 Ciano, the Japan-Germany-Italy Anti-Comintern Pact
11 was signed on the 6th of November of the same year.
12 The Japanese Government's attitude towards this pact
13 was negative.

14 Q Did Mr. TOGO, then the Bureau Director, par-
15 ticipate in the conclusion of this negotiation?

16 A As is stated in my affidavit, the Japanese
17 Government had established a policy which sought a
18 political agreement with Great Britain at the same
19 time as the conclusion of the Anti-Comintern Pact with
20 Germany.

21 I should like to make a correction. As I
22 stated in answer to Mr. Blakney's previous question,
23 it was around October and November that the conclusion
24 of the Japan-Germany-Italy Anti-Comintern Pact became

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a pressing matter -- October to November of 1937.

1 Director TOGO's promotion to the Ambassadorial post
2 in Germany had been decided already in September. In
3 October Mr. TOGO set out on a tour of Manchukuo, and
4 for the two weeks period of this tour Councillor
5 INOUE was Director ex-officio of the bureau. Soon
6 after Mr. TOGO's return from Manchukuo on October 27,
7 he was formally appointed Ambassador to Germany.
8 Therefore, actually, Mr. TOGO had no connection with
9 the conclusion of the Anti-Comintern Pact between
10 Japan, Germany and Italy.
11

12 THE MONITOR: Instead of "conclusion,"
13 "negotiation" should be substituted.

14 MR. BLAKENEY: You may cross-examine.

15 THE PRESIDENT: Mr. Sutton.

16 MR. SUTTON: No cross-examination.

17 MR. BLAKENEY: I ask that the witness be ex-
18 cused on the usual terms.

19 THE PRESIDENT: He is excused accordingly.

20 (Whereupon, the witness was ex-
21 cused.)

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1 MR. BLAKENEY: As proof of the details of the
2 defendant TOGO's absence from Tokyo and from his office
3 at the time of Italy's entrance into the Anti-Comintern
4 Pact, I offer in evidence defense document 2866, a For-
5 eign Minister's certificate.

6 THE PRESIDENT: Admitted on the usual terms.

7 CLERK OF THE COURT: Defense document 2866
8 will receive exhibit No. 3616.

9 ("hereupon the document above re-
10 ferred to was maked defense exhibit No. 3616
11 and received in evidence.)

12 MR. BLAKENEY: I might state, without reading
13 it, that it shows that he was ordered on a trip to
14 Manchukuo on the 7th of October and actually left on
15 the 10th of October, 1937.

16 The next witness is KAMEYAMA, Kazuji whose
17 affidavit is defense document 2753. This witness has
18 previously testified before the Tribunal.

19 MARSHAL OF THE COURT: Mr. President, the
20 witness KAMEYAMA is in court. He has previously been
21 sworn before this Tribunal.

22 THE PRESIDENT: You are still on your former
23 oath.

25

KAZUJI KAMEYAMA, recalled as a witness
on behalf of the defense, having been previously
sworn, testified through Japanese interpreters
as follows:

DIRECT EXAMINATION

BY MR. BLAKENEY:

Q Mr. Witness, please state your name and residence

A My name, KAMEYAMA, Kazuji. My address, Seki,
Gifu Prefecture.

MR. BLAKENEY: Let him be handed defense document 2753.

(Whereupon, a document was handed to
the witness.)Q Please examine that, Mr. Witness, and state
whether that is your affidavit, executed and sworn to
by you.

A This is undoubtedly my affidavit.

Q Are the contents thereof true and correct?

A They are true and correct.

MR. BLAKENEY: I offer in evidence the affidavit,
defense document No. 2753.

THE PRESIDENT: Admitted on the usual terms.

CLERK OF THE COURT: Defense document No. 2753
will receive exhibit No. 3617.

(Whereupon, the document above

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1 referred to was marked defense exhibit
2 No. 3617 and received in evidence.)

3 MR. BLAKENEY: I read the affidavit which,
4 omitting the formal parts, is as follows.

5 "1. My personal history is given in exhibit
6 No. 3234. I was in charge, when holding a post in the
7 Bureau of European-American Affairs (later reorganized
8 as the Bureau of European-Asiatic Affairs), from
9 February 1922 to March 1927 and from November 1930 to
10 May 1935, of these questions referred to in the present
11 affidavit: the conclusion of the Soviet-Japanese Peking
12 Convention of 1925, the discussion of a Soviet-Japanese
13 Non-Aggression Pact and the purchase of the Chinese
14 Eastern Railway. Mr. TOGO, Shigenori was Chief of the
15 First Section of the Bureau of European-American Affairs
16 from January 1922 to March 1927, and Director of the
17 Bureau of European-American Affairs (later the Bureau
18 of European-Asiatic Affairs) from February 1933 to
19 October 1937, and I served under him till I left the
20 Bureau in May 1935.

21 "2. The Soviet-Japanese Basic Treaty was
22 signed at Peking in January 1925, bringing about the
23 restoration of diplomatic relations between the two
24 countries. Mr. TOGO, as the competent section chief,
25 had been dealing with Soviet-Japanese affairs since

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1 1923, taking charge of the study and the planning in
2 connection with many difficult problems existing between
3 the two countries. It was his efforts, in this way,
4 that brought about the settlement of those problems and
5 the conclusion of the treaty, thus completing a most
6 difficult task.

7 "3. As Director of the Bureau of European-
8 American Affairs, he had to deal with many difficult
9 questions pending between Japan and the Soviet Union,
10 such as the problem of the Fisheries Convention, that
11 of the Chinese Eastern Railway and that of the Soviet-
12 Manchukuo and Manchukuo-Mongolian boundary lines. He
13 exerted himself to bring these questions to amicable
14 settlement in order to improve Soviet-Japanese relations,
15 and succeeded. Especially, in bringing to successful
16 conclusion the negotiations for the purchase of the
17 Chinese Eastern Railway, which had been opened in May
18 1933 at the initiative of the Soviet Government, he
19 worked hard for the following two years as the competent
20 bureau director, persuading the military leaders and
21 negotiating with the governments of the Soviet Union
22 and Manchukuo, and achieved success in concluding the
23 agreement for the purchase of the railway on 23 March
24 1935.

25 "4. At the time when the selling of the

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1 railway was proposed by the Soviet Government, there was
2 an opinion supported by some of the military and other
3 ~~circles~~. that it was useless to pay a high price for a
4 railway which was sure to fall into the hands of
5 Manchukuo for nothing sooner or later. And it was feared
6 that this might prove an obstacle to the purchase of the
7 railway through peaceful negotiations. Mr. TOGO, in
8 order to obtain the agreement of the Cabinet to accept-
9 tance of the above Soviet proposal, and to make the
10 Government policy in this regard solid and stable, rea-
11 soned Mr. YAMAOKA, Juko, the then Director of the
12 Bureau of Military Affairs of the War Ministry, and Mr.
13 NAGATA, Tetsuzan, the then Chief of the Second Depart-
14 ment of the General Staff Office, into agreement to his
15 opinion, which resulted in the decision of the Cabinet
16 of 23 May to the following effect; that the proposal of
17 the Soviet Government should be accepted, that Manchukuo
18 should be advised to be the purchaser, and that the
19 Japanese Government should use its good offices to smooth
20 the progress of the negotiations between the Soviet
21 Union and Manchukuo.

22 "5. The general progress of the negotiations
23 for the purchase of the railway is recited in exhibit
24 No. 3234. The direct negotiations between the representa-
25 tives of the Soviet Union and Manchukuo made little

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progress in the face of many difficulties, and they
1 often came to a standstill, and sometimes to the verge
2 of rupture. Mr. TOGO, thereupon, had frequent interviews
3 with Ambassador Yurenev and Director of the Bureau of
4 Far Eastern Affairs Kazlovsky, the Soviet delegates, and
5 concentrated all his energies upon removing misunder-
6 standings and complications on both sides, succeeding
7 thus in smoothing the progress of the negotiations.
8 After that, he had daily conversations with the Soviet
9 delegates, and finally the whole of the negotiations
10 were brought to conclusion.

11 "6. While in the office of Director of the
12 Bureau of European-American Affairs, Mr. TOGO, with the
13 object of preventing as well as settling complications
14 frequently arising in connection with the problem of
15 the Soviet-Manchukuo boundaries, set himself to form a
16 committee for their demarcation and a committee for the
17 settlement of boundary disputes, and took every oppor-
18 tunity to propose it to the Soviet side.

19 "In July 1935, after the conclusion of the
20 Chinese Eastern Railway negotiations in March, the
21 Soviet Government had notified the Japanese Government
22 that it had no objection to opening negotiations for
23 the establishment of the committee for the settlement of
24 boundary disputes, and in the following month, August,

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submitted to us a draft agreement to be concluded
1 between the two. The Manchukuo Government and the
2 Kwantung Army, however, insisted that the demarcation
3 of the Soviet-Manchukuo boundaries be accomplished prior
4 to the formation of the committee, and this hampered the
5 progress of the negotiations. In March 1936, the Soviet
6 Government notified the Japanese Government of its
7 intention to accept, on certain terms, the proposal for
8 border demarcation. In the negotiations, which lasted
9 from April till November 1936, both governments pro-
10 ceeded with a view to forming a committee for the
11 demarcation of the eastern boundaries between the Soviet
12 Union and Manchukuo, and a committee for the settlement
13 of disputes arising on these boundaries, as well as
14 eventually similar committees to deal with all the rest
15 of the boundaries, but the negotiations failed to
16 materialize, the two sides failing to arrive at com-
17 plete agreement of opinion. I know the above progress
18 of the negotiations, because I served as secretary of
19 the Japanese Embassy in Moscow from May 1935 till
20 November 1937.

22 "7. From the day of his appointment as
23 Director of the Bureau of European and American Affairs,
24 Mr. TOGO was an eager advocate of the conclusion of a
25 Soviet-Japanese non-aggression pact but, while in the

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1 office of the Director, he was too busily engaged in
2 dealing with many problems arising successively between
3 Japan and the Soviet Union and requiring prompt settle-
4 ment to seize the opportunity of realizing his inten-
5 tion. It may be stated in this connection, further,
6 that no proposal was made by the Soviet Government with
7 respect to this problem during the period when he was
8 Bureau Director of the Foreign Ministry."

9 You may cross-examine.

10 THE PRESIDENT: Mr. Chief of Counsel.

11 MR. KEENAN: If the Court please, there is no
12 cross-examination.

13 MR. BLAKENEY: I ask that the witness be ex-
14 cused on the usual terms.

15 THE PRESIDENT: He is excused accordingly.

16 ("hereupon, the witness was excused.)

17 - - -
18 MR. BLAKENEY: I now return to exhibit No. 3609A
19 to read from Section 4, Germany, one paragraph, the
20 second on page 14, marked "B:"

21 "In connection with Japanese-German relations,
22 it is to be noted that Germany at present is too involved
23 in European problems to give much attention to Far
24 Eastern questions, in which she has never had any vital
25 or direct interests. The German attitude toward Far

Eastern problems thus far has never been anti-Japanese
1 in any positive sense, but has been rather neutral.
2 Generally speaking, Germany has always been following
3 the suit of the rest of the big powers in her Far
4 Eastern policy. Recently voices have been raised in
5 Germany advocating recovery of the former German man-
6 dated possessions in the Pacific. However, as these
7 islands are not politically or economically of any
8 vital importance to present-day Germany, it may be pre-
9 sumed that she will not insist on regaining them in
10 the face of our objection thereto. Rather it appears
11 as if Germany intends to make use of the question as an
12 excuse to open efforts to regain the long-coveted former
13 German colony in East Africa. It is therefore advisable
14 that, now the German rightist party is in power, we make
15 efforts to have Germany understand our international
16 position in the Far East and at the same time to promote
17 closer contact in culture and science between the two
18 nations, so that she may not deviate from her traditional
19 neutral attitude toward Far Eastern problems."

21 THE PRESIDENT: Major Blakeney, if it is not
22 intended to cross-examine a witness who has made an
23 affidavit, the affidavit should be sufficient. There
24 is no need to call him. That has been our practice for
25 some months.

1 MR. BLAKENEY: I requested yesterday of the
2 Chief Prosecutor information of which witnesses would
3 be cross-examined, and he stated that he was unable as
yet to give me that information.

4 THE PRESIDENT: It is a matter entirely for
5 the prosecution. They can take as long as they like
6 to make up their minds about these things.
7

8 MR. KEENAN: Perhaps, Mr. President, it would
9 be proper for me to explain very briefly the position
10 of the prosecution on that subject matter. If we had
11 made that agreement, if we knew that all the affidavit
12 was going to be read, that would be one thing. But
13 we have had an instance where an agreement was made at
14 the lectern with another accused's counsel to delete
15 a portion of it where we had to do some cross-examining.
16 That is the reason why we required that this witness be
17 present.
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1 particular witness should be called for examination,
2 but the onus will be on him, as heretofore. We will
3 hear the affidavit read first and then we will hear
4 any application by defense counsel to call the witness
5 for cross-examination. That is the usual and proper
6 course.

7 MR. CUNNINGHAM: Well, your Honor, suppose that
8 one of the other counsel wishes to object to a part of
9 the affidavit. Should it be done after the affidavit
10 is read?

11 THE PRESIDENT: It should be done after the
12 affidavit is offered and the reading has commenced.
13 We have not yet reached that stage.

14 MR. CUNNINGHAM: I should like to --

15 THE PRESIDENT: Besides, you said that you
16 wanted to cross-examine and not to object, so don't
17 change your ground for the sake of keeping an argument
18 going.

19 MR. CUNNINGHAM: Well, your Honor, why don't
20 we understand each other? If we object to part of the
21 affidavit and the objection is not sustained, then we
22 wish to cross-examine. If we --

23 THE PRESIDENT: You are arguing against the
24 proper practise. Let Mr. Blakeney tender the
25 affidavit first. We will take those objections in due

course, and take any cross-examination that is
1 warranted.

2 MR. BLAKENEY: I quite understand your Honor's
3 ruling but I point out only that the witness is in the
4 box and I wonder if he should be stood down?

5 THE PRESIDENT: His presence in the box makes
6 no difference to the correct procedure. The correct
7 procedure is to tender his affidavit. He may retire
8 to the witness' room in the meantime. I do not want
9 to embarrass him by keeping him sitting there.

10 (Whereupon, KASAHARA, Yukio left
11 the witness box.)

12 MR. BLAKENEY: I offer in evidence defense
13 document 2742, being the affidavit of KASAHARA, Yukio.

14 THE PRESIDENT: Mr. Cunningham.

15 MR. CUNNINGHAM: Your Honor, so long as the
16 witness is here, we will not make objection to the
17 affidavit. We will not state whether we will cross-
18 examine him or not.

19 THE PRESIDENT: There is no objection to the
20 affidavit, I understand. It is admitted on the usual
21 terms.

22 CLERK OF THE COURT: Defense document 2742
23 will receive exhibit No. 3618.

24 (Whereupon, the document referred to

was marked defense exhibit No. 3618 and
1 received in evidence.)

2 MR. BLAKENEY: I will read the affidavit,
3 which, omitting formal parts, is as follows:

4 "1. I am a former lieutenant-general of
5 the Japanese Army. In January 1938, being then a
6 major-general, I was dispatched, as an officer attached
7 to the General Staff, to Europe and was in Berlin until
8 November of the same year. I had no particular mission
9 in Berlin, but having been informally told that I was
10 to be appointed military attaché to the Embassy in
11 Germany, I was sent in advance at my desire, to be in
12 Germany as early as possible to study language as well
13 as the general situation. During my time in Berlin I
14 met Ambassador TOGO two or three times, but I had no
15 official connection with him and discussed no official
16 business with him.

17 "2. In about July Foreign Minister Ribbentrop
18 made to Military Attaché OSHIMA a proposal, which had
19 been first discussed between them some time previously,
20 concerning a German-Japanese-Italian alliance pact. On
21 that occasion I remarked to General OSHIMA that it was
22 strange that the proposal was not shown to Ambassador
23 TOGO. General OSHIMA replied that Ribbentrop had asked
24 him (OSHIMA) not to mention the matter to the Ambassador

partly because he wished first to sound out the
1 intention of the Japanese military on this subject,
2 and partly because he was afraid that Ambassador TOGO
3 would oppose it if he were approached first, it being
4 accordingly kept secret, on the German side, even from
5 Ambassador Ott; and that therefore he (OSHIWA) could not
6 mention it to Ambassador TOGO.
7

"3. At the request of General OSHIMA I left
8 Berlin by air, carrying this proposal, around the
9 middle of July, arriving at Tokyo at the beginning of
10 August. I delivered the German proposal to the compe-
11 tent authorities of the Army and Navy and also informed
12 the Foreign Minister of it, and it was brought before a
13 Five-ministers' conference, where a decision was made
14 concerning it. I went back to Berlin toward the end
15 of September and reported the circumstances to the
16 military Attaché. Although it had been at General
17 OSHIMA's request that I had gone to Tokyo, I called
18 on Ambassador TOGO immediately upon my return to Berlin"--
19 I am sorry, your Honor, but there seems to be a line
20 omitted here. It should read: "to explain to him why
21 I had gone to Tokyo with Ribbentrop's proposal without
22 letting him know of the question. Ambassador TOGO said
23 that although he had been informed that there had been
24 a decision on this question by the Five-ministers'

1 conference, he was opposed to an alliance with Germany,
2 and his views to that effect had been submitted to the
3 Foreign Minister.

4 "4. While I was in Tokyo, I met Foreign
5 minister UGAKI, and informed him that Ambassador TOGO
6 was not on good terms with the German authorities,
7 which was the fact, that the German authorities consid-
8 ered him not to be cooperative with Nazi policy, and
9 that was the reason that they had not wanted Ribbentrop's
10 proposal shown to the Ambassador. There was prevalent
11 in military circles at that time an opinion that Military
12 Attaché OSHIMA should be made ambassador to Germany.

13 "5. As an example of the relations existing
14 between Ambassador TOGO and the high Nazi officials, I
15 remember that at the time of the munich meeting in
16 September 1938 military Attaché OSHIMA was taken from
17 Berlin to Munich in Foreign Minister Ribbentrop's
18 private plane; while Ambassador TOGO did not go at all."

19 MR. SHIMANOUCHI: I request that the witness
20 be called for cross-examination on behalf of the
21 defendant OSHIMA.

22 THE PRESIDENT: I think the Tribunal is prepared
23 to have him called for cross-examination. He is here.
24 - - -
25

KASAHARA

CROSS

1 YUKIO KASAHARA, recalled as a witness on
2 behalf of the defense, having been previously
3 sworn, testified through Japanese interpreters
4 as follows:

CROSS-EXAMINATION

BY MR. SHIMANOUCHI:

Q You have testified that in July, 1938, on
OSHIMA's request you carried back with you to Tokyo
the German proposals. Did OSHIMA ask for a direction
from the General Staff in regard to your return to
Tokyo?

A He did ask for directions.

THE PRESIDENT: We will adjourn until half
past one.

(Whereupon, at 1200, a recess was taken.)

25 Your question was to remain as an army officer through
and through, and he was reluctant to be appointed
Ambassador. Therefore, if you went back to Japan and

AFTERNOON SESSION

The Tribunal met, pursuant to recess, at
1330.

MARSHAL OF THE COURT: The International
Military Tribunal for the Far East is now resumed.

THE PRESIDENT: Mr. SHIMANOUCHI.

YUKIO KASAHARA, recalled as a witness on
behalf of the defense, resumed the stand and
testified through Japanese interpreters as
follows:

CROSS-EXAMINATION

BY MR. SHIMANOUCHI (Continued):

Q You stated before the afternoon recess --
before the noon adjournment, that you had received a
direction from the General Staff to return to Tokyo.

Correction: You stated that you received a
direction from the General Staff. Was that direction
an order to return to Tokyo?

A It was to the effect that I may return to
Japan for submitting a report -- temporarily.

Q In paragraph 2 of your affidavit, you state:
"In about July Foreign Minister Ribbentrop" -- that is
1938 -- "made to Military Attaché OSHIMA a proposal,
which had been first discussed between them some time

1 previously, concerning a German-Japanese-Italian
2 alliance pact."

3 Had there been extended discussions between
4 Ribbentrop and OSHIMA before July concerning this
5 German-Japanese-Italian alliance pact?

6 THE MONITOR: "Continuous" discussion
7 instead of "extended."

8 A I heard from Military Attaché OSHIMA the
9 following before I left Berlin in regard to that matter:

10 He told me to the effect that the matter was
11 taken up a long time ago on a certain occasion, but
12 the talk had been discontinued and it had just been
13 brought up again by Ribbentrop.

14 THE MONITOR: It had just been brought up
15 suddenly by Ribbentrop.

16 Q Was not this proposal which Ribbentrop made
17 in July a request to sound out the army's ideas?

18 A Yes.

19 Q Did you ever see Ribbentrop on this matter
20 before you returned to Tokyo?

21 A A few days before my departure I met Ribben-
22 trop together with Attaché OSHIMA.

23 Q What conversation took place between Ribben-
24 trop and OSHIMA on that occasion?

25 A As I recall it, Ribbentrop told us that this

25 and through, and he was reluctant to be appointed
Ambassador. Therefore, if you went back to Japan and

proposal was not intended for war, but if it was
realized, it would enable us to avoid war, and to which
Military Attaché OSHIMA agreed wholeheartedly. Military
Attaché OSHIMA said that since he hoped to obtain
the views of the army, he was going to send KASAHARA
back to Japan, but thereafter he would like to have
the negotiations carried out through a diplomatic
channel.

THE MONITOR: Instead of "the army," insert
"the military."

Q In paragraph 4 of your affidavit, you state
that there was prevalent in military circles at that
time an opinion that Military Attaché OSHIMA should
be made Ambassador to Germany. What attitude did
OSHIMA, himself, take towards this proposition?

A I heard the following before my departure
from Berlin.

THE MONITOR: I was told by OSHIMA of the
following before my departure from Berlin.

A (Continuing) Military Attaché OSHIMA told
me that he heard that there were rumors that he was
going to be appointed Ambassador to Germany, but his
real intention was to remain as an army officer through
and through, and he was reluctant to be appointed
Ambassador. Therefore, if you went back to Japan and

1 heard such a rumor, please tell people over there that
2 OSHIMA didn't like to be appointed Ambassador. And
3 I know upon my return to Berlin from Japan and after
4 the telegram came from Japan, that OSHIMA would be
5 appointed Ambassador. OSHIMA was stubbornly refusing
6 to accept the appointment.

7 MR. SHIMANOUCHI: That concludes my cross-
8 examination.

9 May I request a direction from the Tribunal
10 that the witness be reminded he is still on oath?
11 The testimony he gave here was on oath.

12 THE PRESIDENT: He took his oath when he
13 made his affidavit. He has been called for cross-
14 examination on the affidavit. All requirements have
15 been met.

16 MR. SHIMANOUCHI: Thank you, your Honor.

17 MR. BLAKENEY: May the witness be excused
18 on the usual terms?

19 THE PRESIDENT: He is excused on the usual
20 terms.

21 (Whereupon, the witness was excused.)

22 MR. BLAKENEY: I next call as a witness
23 SHUDO, Yasuto. The affidavit is defense document 2743.

24 - - -
25

1 YASUTO SHUDO, called as a witness on
2 behalf of the defense, being first duly sworn,
3 testified through Japanese interpreters as
4 follows:

5 DIRECT EXAMINATION

6 BY MR. BLAKENEY:

7 Q Mr. Witness, will you please state your
8 name, residence, and occupation?

9 A My name is SHUDO, Yasuto; my address,
10 1 Kasumi-cho, Azabu, Minato-ku, Tokyo; my occupation,
11 private adviser to the Minister of Finance.

12 MR. BLAKENEY: I ask that he be handed
13 defense document No. 2743.

14 (Whereupon, a document was handed
15 to the witness.)

16 Q And I ask you, Mr. Witness, to examine that
17 document and state whether it is your affidavit,
18 signed and sworn to by you?

19 A This is undoubtedly mine.

20 Q And are the contents thereof true and cor-
21 rect, to the best of your knowledge?

22 A They are true and correct.

23 MR. BLAKENEY: I offer the affidavit in
24 evidence, calling attention to the fact that the docu-
25 ments mentioned in paragraphs 3 and 6 thereof are

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items 6 and 7, exhibit 3610.

1 THE PRESIDENT: Admitted on the usual terms.

2 CLERK OF THE COURT: Defense document 2743
3 will receive exhibit No. 3619.

4 (Whereupon, the document above
5 referred to was marked defense exhibit
6 No. 3619 and received in evidence.)

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1 MR. BLAKENEY: I shall read the affidavit,
2 omitting the formal parts:

3 "1. I entered the service of the Japanese
4 Foreign Ministry in 1920. From February 1937 to
5 December 1938 I served as commercial attache in the
6 Japanese Embassy in Germany. During the period
7 (December 1937 to October 1938) that my service was
8 under Ambassador TOGO, there were two important prob-
9 lems of Japanese-German collaboration, on which I was
10 officially informed of the Ambassador's views and
11 actions, concerning which I am able to give testimony.

12 "2. First of these was the question of
13 strengthening the Anti-Comintern Pact or concluding a
14 Japanese-German-Italian alliance. Ambassador TOGO
15 was consistently opposed to such measures, but the
16 military attache to the Embassy was working for them,
17 ignoring the Ambassador, and the Embassy staff was well
18 aware that General OSHIMA was negotiating directly with
19 Foreign Minister Ribbentrop. Ambassador TOGO's opinion
20 on the question was often expressed by him to me, in
21 the course of our almost daily conferences concerning
22 my business of trade and commercial questions. My
23 interest being in commercial and trade questions, the
24 opinion which I expressed to Ambassador TOGO was that
25 Germany had become economically very strong and was

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1 closely connected by trade relations with the Eastern
2 European countries as well as the Balkans, and that
3 these relations were steadily becoming intensified
4 and assuming a greater importance; and that if these
5 relations developed in a section of Europe in which
6 Great Britain traditionally had great interests,
7 eventually the two would come into collision. Japan,
8 if bound to Germany by a military alliance, would thus
9 be drawn into a war with England -- and of course the
10 United States as well -- which was none of her concern,
11 nor to her interest. Ambassador TOGO agreed with my
12 opinion and expressed it as his view that Germany would
13 eventually clash with Great Britain, Russia and
14 other powers, and therefore deprecated the policy of
15 aligning Japan with Germany as sure to involve Japan's
16 ultimate embroilment in the quarrels of Europe.

17 "3. In March or April 1938 the Naval
18 Atache of the Embassy sent a cable to the Navy
19 Ministry strongly urging Ambassador TOGO's removal
20 on the ground that he was on bad terms with the German
21 Foreign Minister and that his retention in the cir-
22 cunstance of the time, when it was necessary to promote
23 Japanese-German cooperation, was not in the interest of
24 the country. The cable stated also that the matter
25 had been talked over with the Military Atache. This

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1 became known to us when the content of the cable
2 was transmitted from the Foreign Ministry to Ambassa-
3 dor TOGO. Upon learning of this the members of the
4 staff were indignant, and, feeling that the con-
5 spiracy of Army and Navy to take over the Embassy
6 could not be ignored, moved for the defense of the
7 Ambassador and the Embassy. There was, however, little
8 that we could do, and in the end the Ambassador was
9 transferred from Berlin to Moscow, after only ten
10 month's service in Germany. When he received the
11 order for his transfer, he told me that he was being
12 expelled from Berlin on account of his opposition in
13 the matter of the German-Japanese-Italian alliance.

14 "4. Soon afterward, I was ordered home.
15 Leaving Berlin on 8 December 1938, I stopped en route
16 at Moscow, and talked with Ambassador TOGO. He asked
17 me about the subsequent development of the alliance
18 problem, and I replied that it seemed that progress
19 toward it was being made, though I was not familiar
20 with the details. The Ambassador thereupon requested
21 that when I should report to such responsible quarters
22 as Premier, Foreign Minister and other ministers upon
23 my return home, I should tell them that TOGO was
24 absolutely opposed to a German-Japanese-Italian
25 alliance. Upon reaching Japan I did convey that

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message to several persons: I arrived in Tokyo on
1 22 December, and repeated Ambassador TOGO's opinion
2 to Foreign Minister ARITA and Vice-Minister SAWADA; to
3 Welfare Minister KIDO, on the 24th; to Premier KONOYE
4 on 31 December; and in early January to Lord Keeper
5 of the Privy Seal YUASA.

6 "5. The second problem during my service
7 under Ambassador TOGO in Berlin was that of economic
8 cooperation in China between Japan and Germany. Around
9 February 1938 the so-called 'Economic Mission,' a
10 Japanese Government mission which had no power to
11 enter into agreements or negotiate directly, but only
12 to assist the Embassy, visited Germany. It was at
13 first the understanding of the German authorities
14 that the mission was to conduct negotiations concern-
15 ing a commercial agreement, but the fact was that the
16 Embassy was to conduct the negotiations directly with
17 the German Government, the mission having no official
18 authority for that purpose. Meanwhile the situation
19 in China had so developed that Japanese influence
20 came to be dominant in North China; whereupon the
21 military attache to the Embassy, after consulting with
22 the naval attache and the economic mission but not
23 with the Embassy, made to Foreign Minister Ribbentrop
24 a proposal for settling the conditions of German trade

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in China. This proposal was that, since Japan had
1 caused much difficulty to Germany in her China trade
2 since the start of the China Affair, she would, now
3 that she had occupied strategic points in North China,
4 from that time give to the Germans equal treatment
5 with the Japanese in that area.

6 "6. Foreign Minister Ribbentrop, who had
7 been put in a difficult position by the complaints
8 of the Hamburg merchants concerning conditions in
9 China, was very much pleased at this proposal. Think-
10 ing it necessary in view of the importance of the
11 matter to make it into a formal agreement between the
12 two governments, he put it into the form of a memo-
13 randum, which he presented to Ambassador TOGO around
14 May, saying that it was desired to make the proposal
15 of the Japanese in Berlin a formal agreement. Ambas-
16 sador TOGO replied that any proposal made by unauthor-
17 ized persons could not be made the basis of formal
18 negotiations; that he had received no instructions
19 from the home government about the matter, and there-
20 fore could not enter into negotiations on the basis
21 of such a memorandum. Upon returning to the Embassy
22 after the conversation on this subject with Foreign
23 Minister Ribbentrop, Ambassador TOGO called me in
24 immediately and told me about it. I understood later

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from the Ambassador that Foreign Minister Ribbentrop
1 was much dissatisfied with the Ambassador's attitude;
2 but after further conversations with the military and
3 naval attaches, as well as the economic mission,
4 Ribbentrop drafted and handed to Ambassador TOGO
5 another memorandum with the word 'preferential'
6 substituted for 'equal,' asking that it be transmitted
7 to the Japanese Government. Immediately upon his
8 return to the Embassy the Ambassador called me and
9 told me about it. It being the second request, he
10 could not refuse to transmit it to the government;
11 but we discussed the question and agreed that it was
12 not possible in practice to give 'preferential' treat-
13 ment, and that therefore Japan could not make such an
14 agreement, and this opinion of ours was transmitted
15 with the memorandum to the Foreign Minister in Tokyo.
16

"7. Owing to my being completely occupied
18 for some time thereafter with the negotiations for
19 conclusion of a commercial treaty to replace the then
20 existing arrangements for trade between Germany and
21 Japan, I had little acquaintance with subsequent
22 developments in the matter of economic interests in
23 China. I knew only in a general way that instructions
24 were sent from Tokyo in the matter, and that negotia-
25 tions continued; but it was my understanding that they

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from the Ambassador that Foreign Minister Ribbentrop
1 was much dissatisfied with the Ambassador's attitude;
2 but after further conversations with the military and
3 naval attaches, as well as the economic mission,
4 Ribbentrop drafted and handed to Ambassador TOGO
5 another memorandum with the word 'preferential'
6 substituted for 'equal,' asking that it be transmitted
7 to the Japanese Government. Immediately upon his
8 return to the Embassy the Ambassador called me and
9 told me about it. It being the second request, he
10 could not refuse to transmit it to the government;
11 but we discussed the question and agreed that it was
12 not possible in practice to give 'preferential' treat-
13 ment, and that therefore Japan could not make such an
14 agreement, and this opinion of ours was transmitted
15 with the memorandum to the Foreign Minister in Tokyo.
16

"7. Owing to my being completely occupied
18 for some time thereafter with the negotiations for
19 conclusion of a commercial treaty to replace the then
20 existing arrangements for trade between Germany and
21 Japan, I had little acquaintance with subsequent
22 developments in the matter of economic interests in
23 China. I knew only in a general way that instructions
24 were sent from Tokyo in the matter, and that negotia-
25 tions continued; but it was my understanding that they

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1 showed little progress, and I know that no agreement
2 had been reached regarding the problem of German trade
3 in China up to the time that Ambassador TOGO was
4 transferred from Berlin."

5 You may cross-examine.
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THE PRESIDENT: Mr. Logan.

1 MR. LOGAN: I should like to ask one ques-
2 tion on direct examination of this witness on behalf
3 of the accused KIDO.
4

5 DIRECT EXAMINATION (Continued)

6 BY MR. LOGAN:

7 Q As stated in your affidavit, Mr. SHUDO,
8 when you told Welfare Minister KIDO on December 24,
9 1938, that TOGO was absolutely opposed to the Japanese-
10 German-Italian alliance, what did Welfare Minister
11 KIDO tell you at that time?

12 A I remember that Marquis KIDO told me that
13 although he was not a member of the Five Ministers'
14 Conference, being a minister of state he had heard
15 about this matter, and told me about the domestic
16 situation in regard to this proposed pact, adding that
17 he, himself, felt that this proposal should not be
18 carried through.
19

20 THE MONITOR: Instead of "being a minister
21 of state," "the matter being so important."

22 MR. LOGAN: Thank you.
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1 MR. SHIMANOUCHI: Cross-examination on behalf
2 of the defendant OSHIMA.

3 CROSS-EXAMINATION
4 BY MR. SHIMANOUCHI:

5 Q I have a question to ask you in connection with
6 paragraph 3 of your affidavit.

7 Who was the Japanese Naval Attache in Berlin
8 in March or April 1938?

9 A Commander KOJIMA, Hideo.

10 Q Were Ambassador TOGO and Naval Attache KOJIMA
11 on intimate terms at that time or otherwise?

12 A I didn't know anything about that.

13 Q Was it true that in those days it was customary
14 that telegrams were shown to the Military Attache attached
15 to the Japanese Embassy, but they were not shown to the
16 Naval Attache; was that true?

17 THE INTERPRETER: Correction, please: "Was it
18 true -- was it a fact that telegrams were shown to the
19 Military Attache, but they were not shown to the Naval
20 Attache; was that true?"

21 A I never heard anything about that.

22 Q In paragraph 5 of your affidavit you testify
23 that an economic mission or rather an economic envoy
24 was sent from Japan to Germany in February -- from the
25 Japanese Government was sent to Germany in February 1938.

1 Who was the head of the economic mission from
2 Japan?

3 A Mr. GODO, Takuo.

4 Q Who were among the members of his suite?

5 A The former commercial secretary to the Embassy,
6 Alexander NAGAI, and Mr. IINO of the Mitsubishi Shoji.

7 Those were some of the members of his suite.

8 Q What was the position or the title of the envoy
9 GODO?

10 A I don't know what his rank was at the time. I
11 think he was a former Minister of Commerce and Industry.

12 Q Did delegate GODO receive any specific
13 instructions for coming to Germany from the Japanese
14 Government?

15 A My recollection is that he did.

16 Q What authority or power did this envoy have?

17 A As is written in my affidavit, in the beginning
18 I believe this economic mission came to Germany with
19 the idea of conducting negotiations regarding the
20 conclusion of a commercial agreement between Japan and
21 Germany. But this was found to be a mistake and
22 instructions came from the Ministry at home that the
23 Ambassador was to conduct the negotiations and that
24 the economic mission was to assist these negotiations.
25

Q Was there no occasion in which disputes arose

1 concerning this matter of the power of the delegate
2 to Germany -- economic delegate to Germany -- between
3 the Embassy and Mr. GODO?

4 A No, there was no controversy.

5 Q Did Envoy GODO conduct any economic negotiations
6 with the German side?

7 A I did not know of any specific matters on which
8 he was negotiating with the Germans.

9 Q Then let me ask you this question: You state
10 in your affidavit that the Military Attaché to the
11 Embassy, after consulting with the Naval Attaché and the
12 economic mission, but not with the Embassy, made to
13 Foreign Minister Ribbentrop a proposal for settling the
14 conditions of German trade in China. How did you come
15 to know that the Military Attaché of the Embassy consulted
16 or carried out discussions with the economic mission and
17 the Naval Attaché, but not with the Embassy?

18 A I knew of that because Ambassador TOGO told
19 me that Von Ribbentrop had told him of that.

20 Q Then how did you find out that the Military
21 Attaché made proposals to Foreign Minister Ribbentrop
22 concerning the terms of the commercial agreement?

23 A I heard from Ambassador TOGO in the same way
24 that von Ribbentrop had informed him of that.

25 Q In your affidavit you further state that after

further conversations with the Military and Naval
1 Attaches as well as the economic mission, Ribbentrop
2 drafted and handed to Ambassador TOGO another memorandum.
3 Then let me ask you, Mr. Witness: How did you find out
4 or how did you come to know that the Military Attaché
5 consulted on two occasions -- for the second time with
6 Ribbentrop?

A In the same way as I told you before. I heard
8 from Ambassador TOGO that von Ribbentrop had informed
9 him about this matter.

MR. SHIMANOUCHI: That is all. This concludes
11 my cross-examination.

I have a request to make of the Tribunal at
13 this time. I should like to get the leave of the
14 Tribunal for calling two witnesses in order to defend
15 the accused OSHIMA in connection with the paragraph 3,
16 5 and 6 of the affidavit made by this witness on the
17 ground that this witness had the accused OSHIMA placed
18 in an unexpectedly disadvantageous position by the fact
19 that the points -- new matters which had never been
20 raised, neither by the prosecution nor the defense, were
21 raised by this witness in his testimony.

In order to present counterevidence to those
24 facts I should like to call two witnesses, including the
25 then Naval Attaché to Berlin and a member of the economic

mission which was then sent to Germany. However,
1 the former Naval Attaché KOJIMA is in Hokkaido at
2 present. I was told that the Envoy. GODO is now in
3 Hakone.
4

Therefore, if permission is to be given by
5 the Tribunal, before calling those two witnesses I should
6 like to have the permission of the Tribunal to have
7 them appear in this court in ten days or in two weeks.
8

THE PRESIDENT: You better renew that application
9 before me in chambers. Further particulars will be
10 required. I shall place them before my Colleagues.

MR. SHIMANOUCHI: Thank you; I shall do so.

MR. BLAKENEY: May the witness be excused on
13 the usual terms?

THE PRESIDENT: He is excused accordingly.

(Whereupon, the witness was excused.)

17
18 MR. BLAKENEY: I now offer in evidence the
19 affidavit of the witness SAKAYA, Tadashi, defense docu-
20 ment No. 2745, adding that the documents referred to in
21 paragraphs 3 and 4 thereof are to be found in exhibit
22 3610 as items 8 and 11.
23

THE PRESIDENT: It is admitted on the usual
24 terms.
25

CLERK OF THE COURT: Defense document 2745 will

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receive exhibit No. 3620.

(Whereupon, the document above referred to was marked defense exhibit No. 3620 and received in evidence.)

1 MR. BLAKENEY: I shall read the affidavit:

2 "1. I entered the Foreign Ministry in March
3 1921 and, after serving at various posts, became
4 Minister to Finland in September 1940, remaining in
5 that position until my retirement from the Foreign
6 Ministry in April 1945.

7 "2. From December 1937 to October 1938 I
8 served in Berlin as First Secretary to the Embassy
9 under Ambassador TOGO. Being the senior secretary,
10 and consequently in charge of the telegraphic code of
11 the Ambassador, I came to be directly acquainted with
12 such questions as the strengthening of the Anti-
13 Comintern Pact, that is, the German-Japanese Alliance,
14 and the change of Japanese ambassadors to Germany which
15 arose during the above-mentioned period. From the
16 knowledge so officially gained I give the following
17 testimony.

18 "3. As I had in July 1938 an inkling of the
19 fact that General OSHIMA, Military Attaché to the
20 Embassy, had been negotiating with Ribbentrop for the
21 strengthening of the Anti-Comintern Pact, and that
22 Major-General KISAHARA had hurriedly returned to Japan,
23 taking a German proposal on the subject, I submitted
24 this report to Ambassador TOGO, who cabled toward the
25 middle of August to the Foreign Minister, saying that

1 a German-Japanese-Italian alliance would not contri-
2 bute to the solution of the China Affair, as argued
3 by those who supported the strengthening of the Anti-
4 Comintern Pact, and that it would be foolhardy for the
5 Japanese nation, which had a history of more than two
6 thousand years behind her, to co-operate with Hitler,
7 who was convinced that the rise of Germany was mainly
8 attributable to him and was therefore prone to risk
9 everything in a game of hazard for his ambition. A
10 tripartite pact, he urged, contained the possibility
11 of being abused to bring about a European war in which
12 Japan also might become involved; therefore the pend-
13 ing negotiations for the alliance should be abandoned
14 as the establishment of any closer relation with
15 Germany and Italy, or the contracting of any bond of
16 alliance with them, would threaten great dangers to
17 the future of Japan.

"4. The Foreign Minister cabled, however,
at the end of August, that the cabinet ministers con-
cerned in Tokyo had decided to have the Military
Attache keep in touch with Ribbentrop on the question
of strengthening the Anti-Comintern Pact. The
Ambassador strongly urged the Foreign Minister's re-
consideration, insisting that the German-Japanese
relation should not be drawn any closer than it then
20 terms, since
21 shortly, relia-
22 he had served in Japan.
23 years, he wished he could be o
24 He set forth his views that the Allies, whom they had
25 avowed that they were determined to force Japan to

a German-Japanese-Italian alliance would not contribute to the solution of the China Affair, as argued by those who supported the strengthening of the Anti-Comintern Pact, and that it would be foolhardy for the Japanese nation, which had a history of more than two thousand years behind her, to co-operate with Hitler, who was convinced that the rise of Germany was mainly attributable to him and was therefore prone to risk everything in a game of hazard for his ambition. A tripartite pact, he urged, contained the possibility of being abused to bring about a European war in which Japan also might become involved; therefore the pending negotiations for the alliance should be abandoned as the establishment of any closer relation with Germany and Italy, or the contracting of any bond of alliance with them, would threaten great dangers to the future of Japan.

"4. The Foreign Minister cabled, however, at the end of August, that the cabinet ministers concerned in Tokyo had decided to have the Military Attaché keep in touch with Ribbentrop on the question of strengthening the Anti-Comintern Pact. The Ambassador strongly urged the Foreign Minister's reconsideration, insisting that the German-Japanese relation should not be drawn any closer than it then

1 existed, and that, moreover, it was not proper for a
2 military attache to be charged with matters other than
3 military affairs. Within a few days after the dis-
4 patch of this message, Ambassador TOGO received a
5 cable from the Foreign Minister requesting his agree-
6 ment to his transfer to Moscow.

7 "Ambassador TOGO refused to assent to the
8 Foreign Minister's request, answering him that he
9 would rather remain in Berlin to work on German-
10 Japanese affairs, which just then required the most
11 careful attention. The response was another telegram
12 from the Foreign Minister urging the Ambassador's
13 assent, which he then gave. Ambassador TOGO left
14 Berlin in October for Moscow.

15 "5. On 9 April 1945, Mr. TOGO was appointed
16 by His Majesty as Foreign Minister in the SUZUKI
17 Cabinet. Prior to this, toward the end of March of
18 the same year, I had had a talk with Mr. Bagge, the
19 Swedish Minister, with whom I had been on friendly
20 terms for a long time. He was leaving Japan for home
21 shortly, relieved of his office, and told me that, since
22 he had served in Japan for so long a time as twenty
23 years, he wished he could be of some service to Japan.
24 He set forth his views that the Allies, though they had
25 avowed that they were determined to force Japan to

surrender unconditionally, would not necessarily adhere
1 to that if Japan proposed to conclude peace, and that
2 the question of the Imperial Household, which Japan
3 took the most serious view of, would not come into
4 question in that case. He further suggested that the
5 Swedish Government could sound the intention of the
6 American Government, and asked me if Mr. SHIGEMITSU,
7 the then Foreign Minister, would agree to it. I
8 thereupon conveyed his views and suggestion to Foreign
9 Minister SHIGEMITSU confidentially. Later, when the
10 Swedish Minister made a call upon the Foreign Mini-
11 ster the matter was brought into the conversation.
12 Mr. SHIGEMITSU stated on that occasion that it would
13 greatly oblige him if the Swedish Government would,
14 as its own instance, take the trouble of sounding out
15 the intention of the American Government in connection
16 with the peace terms. I was informed of the "..."
17 both Mr. SHIGEMITSU and Minister Togge.
18 "6. After Mr. TOGO was appointed Foreign
19 Minister, I called on him on 11 April to make a
20 report of the above details, and asked his intention
21 in this connection. The Foreign Minister replied that
22 he had not yet received any report of the matter, but
23 he referred to his eager desire for prompt restor-
24 ation of peace, and requested me to ask the Swedish

Minister to bring his suggestion to realization.

1 Thereupon on the following day, 12 April, I called on
2 Minister Bagge who was then waiting for the plane to
3 carry him home, and told him that Mr. TOGO was of the
4 same opinion as the former Foreign Minister, asking if
5 he had any desire to see the new Foreign Minister in
6 this connection. The Swedish Minister looked very
7 much delighted, and promised to set about bringing the
8 above project to realization. He also expressed his
9 desire to see the Foreign Minister if possible. How-
10 ever, he was compelled to leave Tokyo without seeing
11 the Foreign Minister, as the plane left on the follow-
12 ing morning."

14 Next on my order of proof is defense document
15 No. 2925 which, however, I omit as it is no longer
16 necessary.

17 I now offer in evidence defense document
18 2669, the affidavit of ITO, Nobufumi, whose presence
19 for cross-examination, I understand, is not desired.

20 THE PRESIDENT: Admitted on the usual terms.

21 CLERK OF THE COURT: Defense document 2669
22 will receive exhibit No. 3621.

23 (Whereupon, the document above
24 referred to was marked defense exhibit
25 No. 3621 and received in evidence.)

MR. BLAKENEY: May I correct an oversight by
1 saying that, in connection with the testimony of the
2 witness SAKAYA, I should like to refer to the state-
3 ment of Minister Bagge, already admitted in evidence
4 as exhibit No. 3558.

5 I now read exhibit No. 3621, the affidavit
6 of ITO, Nobufumi:

7 "1. In 1939 I was serving in the Japanese
8 Foreign Ministry, with the rank of Minister. In
9 January 1939 I left Tokyo under instruction of the
10 Government to convey to the Japanese Ambassadors to
11 Germany and Italy the Government's intentions relative
12 to the question of a Tripartite Alliance. I arrived
13 in Berlin on this mission in February.

14 "2. While I was in Berlin exchanging views
15 with Ambassador OSHIMA in conformity with my instruc-
16 tions, I developed neuralgia and was confined to bed
17 in the Hotel Bristol. During that period Mr. TOGO
18 Shigenori, then Ambassador to the U.S.S.R., called on
19 me and we had a conversation regarding the subject of
20 my mission. The substance of the conversation is as
21 follows:

22 "3. I explained to Ambassador TOGO that al-
23 though there were various views in Tokyo concerning a
24 Tripartite Alliance, the Government could conclude the

1 alliance if it were to be understood that the measures
2 to be taken in various eventualities would be decided
3 independently by each signatory, with possible agree-
4 ment for an exception in the case of the U.S.S.R.
5 Ambassador TOGO said that Japan should not adopt such
6 a policy even against the Soviet Union. He expressed
7 himself as opposed to a Tripartite Alliance for the
8 reasons which he had given to Tokyo when he was Am-
9 bassador to Germany; that it would not contribute to,
10 the solution of the China Affair, as asserted by its
11 proponents; and that it would increase the danger of
12 a European war and of Japan's being entangled in such
13 a war. Mr. TOGO expressed his desire that I should
14 promptly return to Tokyo and endeavor to prevent the
15 conclusion of the alliance."

16 I now offer in evidence defense document No.
17 2752, the affidavit of the witness Kurt Meissner,
18 whose attendance for cross-examination, I understand,
19 is dispensed with.

20 THE PRESIDENT: Admitted on the usual terms.

21 Are you objecting, Mr. Sutton?

22 MR. SUTTON: We do not desire to cross-
23 examine the witness.

24 The prosecution does object to paragraph 6 of
25 the affidavit on the ground that the reputation of TOGO

1 in the German colony in Japan is immaterial to any of
2 the issues involved in this case.

3 MR. BLAKENEY: I shan't oppose the objection.
4 At the time the affidavit was drawn, it was considered
5 proper and therefore appears here.

6 THE PRESIDENT: It is admitted, except as to
7 paragraph 6.

8 CLERK OF THE COURT: Defense document 2752
9 will receive exhibit No. 3622.

10 (Whereupon, the document above
11 referred to was marked defense exhibit
12 No. 3622 and received in evidence.)

13 MR. BLAKENEY: I read exhibit 3622, omitting
14 the formal parts. It is as follows:

15 "1. I am 62 years of age, a German citizen.
16 Since 1906 I have lived continuously in Japan, where
17 I have been engaged in trade and manufacture. I was
18 president, from 1920 to 1946, of the German Society
19 for East-Asiatic Natural History and Ethnography, the
20 scholarly society for study of Oriental culture
21 founded in 1873. I have never held office under the
22 Japanese or the German government, or the Nazi Party.

23 "2. I have known the defendant TOGO Shigenori
24 since 1921. It was not Mr. TOGO's habit to mix with
25 the Germans resident in Tokyo, except for official

relations with the Embassy personnel; but owing to
1 the fact that his wife is a distant relative of mine
2 my association with him has been rather closer. Thus
3 during the twenty-six years of our acquaintance I
4 have seen him and talked with him, at his house or
5 mine or elsewhere, from once a week to once in a few
6 months. Our intercourse has always been friendly and
7 confidential, never in any way official. In such a
8 way I have had occasion to hear the personal and con-
9 fidential expression of his views upon international
10 questions, whether he was in or out of office; just
11 because I have never concerned myself with political
12 questions, Mr. TOGO's rare mention of such matters
13 made a deep impression on me, and remained in my
14 memory.

16 "3. On occasion Mr. TOGO has mentioned to me
17 his dislike of the rapprochement between Japan and
18 Germany. I was particularly struck by his outlook
19 toward Germany politically since I knew him to be a
20 graduate of the Imperial University in German Literature
21 and very often heard him express a fondness for German
22 culture and literature of the time of Goethe and Kant.
23 Nevertheless, I have heard him express this opinion of
24 opposition to such a rapprochement since before he
25 became Ambassador to Germany. When the Anti-Comintern

1 Pact was concluded during his tenure as Director of
2 the Foreign Ministry Bureau of European and American
3 Affairs, he commented more than once that the making
4 of alliances on ideological grounds was undesirable,
5 that Japan should not adopt a policy which would
6 alienate Great Britain and America, to say nothing of
7 the U.S.S.R., and that the effect on Japan's inter-
8 national position from entering into such an arrange-
9 ment would be bad.

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"4. As the power of the Nazi regime grew, Mr. TOGO became increasingly cold to Germany and determined that Japan should avoid entanglement with her. His opinions as expressed to me were always anti-Nazi; and when I visited Berlin during his ambassadorship there I learned that he was on bad terms with Foreign Minister von Ribbentrop especially.

"5. When Mr. TOGO became Foreign Minister for the first time I went to congratulate him, and said that I hoped that he would be able to avert the war which we all then feared. His reply was that averting war was his task, and that he would fight to the end for a peaceful solution of Japan's international problems. His acquaintance with the new Premier had, he said, been slight, but he had come into the government on the assurance that the Foreign Minister's efforts for peace would be fully supported by the Premier and the cabinet."

I understand that cross-examination will not be required, and therefore offer in evidence the affidavit of MATSUMOTO SHUN-ICHI, defense document 2755.

THE PRESIDENT: Admitted on the usual terms.

CLERK OF THE COURT: Defense document 2755 will receive exhibit No. 3623.

(Whereupon, the document above referred to was marked defense exhibit No.

3623 and received in evidence.)

1 MR. BLAKENEY: I read the affidavit, exhibit
2 No. 3623, omitting the formal parts:

3 "1. I entered the service of the Foreign
4 Ministry in 1921, and was Chief of its Personnel Sec-
5 tion from April 1939 to March 1940. During the time
6 when Mr. TOGO was Foreign Minister for the first time
7 (18 October 1941 -- 1 September 1942), I was Director of
8 the Bureau of Treaties, and when he was Foreign Minister
9 for the second time, I served under him as Vice-Minister
10 for Foreign Affairs from 13 May 1945 to 17 August of the
11 same year.

12 "2. As Chief of the Personnel Section of the
13 Foreign Ministry, I participated in the examination of
14 the services of those who were concerned in the con-
15 clusion of the Japanese-German Anti-Comintern Pact, as
16 well as in taking the necessary procedure for their
17 recognition. In the conferment of rewards for services
18 rendered in concluding an international treaty or pact
19 careful consideration must always be given to the in-
20 fluences it may exert upon internal as well as inter-
21 national relations, and accordingly it would not be an
22 easy task to take into consideration such inner circum-
23 stances as that the success of negotiations should be
24 largely attributed to the eager efforts of Mr. So-and-So,

or that the circumstances have forced Mr. Togo-and-So,
1 who was originally against the conclusion of the treaty,
2 to take charge of the business reluctantly. Therefore
3 on all such occasions the Foreign Ministry used to recom-
4 mend first as persons to receive awards the chief offi-
5 cials in charge of the matter. In the case of the
6 Japanese-German Anti-Comintern Pact also, those of the
7 Foreign Ministry who received awards for their services
8 were the Foreign Minister (the first grade, Kyokujitsu),
9 the Vice-Minister for Foreign Affairs (the second grade,
10 Kyokujitsu), the Directors of the bureaus in charge of
11 the matter, that is, the Director of the Bureau of
12 European-Asiatic Affairs (the second grade, Kyokujitsu)
13 and the Director of the Bureau of Treaties (the third
14 grade, Kyokujitsu), the Chief of the Second Section of
15 the European-Asiatic Bureau (the fifth grade, Kyoku-
16 jitsu) and the chief officials in the Japanese Embassy
17 at Berlin who were in charge of the matter. (The posts
18 mentioned here are all those of the time of the conclusion
19 of the pact, and the decorations awarded them were of
20 the next higher grade than the last awards that had been
21 bestowed upon them respectively.) Mr. TOGO was awarded
22 the above-mentioned decoration as the then Director of
23 the Bureau of European-Asiatic Affairs.
24

"3. When the agreement was concluded on 25 No-

vember 1941 to extend the term of validity of the Anti-
1 Comintern Pact by five years, the secret agreement
2 between Japan and Germany annexed to the Pact was abro-
3 gated. Foreign Minister TOGO intended, in view of the
4 dissatisfaction which the Soviet Government had enter-
5 tained as to the secret agreement, to seize the oppor-
6 tunity to abrogate it so that it might not hinder the
7 development of friendly relations between Japan and the
8 USSR, and, at his own initiative, instructed the
9 Ambassador at Berlin to propose its abrogation to the
10 German Government. After obtaining the consent on the
11 part of the German Government, he referred the matter
12 to the Cabinet for deliberation, where the decision of
13 the Government was made to the above effect.

"4. The Foreign Ministry had nothing to do
16 with the conclusion of a military agreement among Japan,
17 Germany and Italy on 18 January 1942. Moreover, no treaty
18 to such an effect was concluded among the three govern-
19 ments, and the opinion of the Privy Council was never
20 requested on either signing or execution of any such
21 treaty. If such a military agreement was really con-
22 cluded, it can have been nothing more than an arrangement
23 among the military authorities regarding operations.
24 It is not possible under the constitution for Japan to
25 commit herself to a plan to divide the world among the

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1 three countries through an arrangement among the mili-
2 tary authorities of the countries concerned. Moreover,
3 I had never heard that an arrangement was made at the
4 time among the military authorities of the three coun-
5 tries regarding the division of the world.

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1 "5. At 7:00 A. M., 10 August 1945, the
2 notification of the Japanese Government to the
3 Governments of the United States, Great Britain,
4 the U.S.S.R. and China concerning the acceptance of
5 the Potsdam Declaration was dispatched. The noti-
6 fication stated that it was understood that the condi-
7 tions included in the provisions of the Potsdam
8 Declaration did not include any request prejudicial
9 to the prerogative of the Emperor to rule the country.
10 At about 1:00 A.M., 12 August, I received a telephone
11 call from Foreign Minister TOGO telling me that the
12 Foreign Ministry had heard a report of the contents
13 of the Allied reply, just received by radio, and
14 instructing me to study the questionable points in
15 the reply and make report. At about 5:30 A.M. I
16 called at the Minister's residence with ANDO and
17 SHIBUSA?A, Directors of the Political Bureau and
18 the Treaty Bureau, respectively, and reported to the
19 Minister that the conclusion reached as the result
20 of our study was that the Allied reply accepted in
21 general our understanding as proposed. The reply
22 which was issued by the United States Secretary of
23 State through the Swiss Government was received by
24 the Foreign Ministry in the early morning of the 13th."

1 Again I return to exhibit 3609-A, "1933
2 Suggested Policy," to read excerpts of the sections
3 treating of Japanese-American, Japanese-British,
4 and Japanese-Dutch relations." These are marked
5 "C." I begin at page 1, at the beginning.

6 "As a result of the conflict of views be-
7 tween the Japanese Government and the League of
8 Nations concerning fundamental principles for the
9 establishment of peace in the Orient, rendering it no
10 longer possible to cooperate with the League, the
11 Japanese Government has recently given notification
12 of its withdrawal therefrom. Now that Japan is out-
13 side of the League and henceforth will have to assume
14 a position in international political affairs quite
15 different from that in the past, it is incumbent upon
16 us to give the most careful and thoughtful considera-
17 tion and study to Japan's foreign policy, so that we
18 may successfully and without miscarriage come through
19 the critical situation now facing our country.
20

21 A. OUR RELATIONS WITH THE COUNTRIES OF
22 EUROPE AND AMERICA:

23 "(1) The United States.

24 "Although the United States is not a member
25 of the League of Nations, its enormous national power
gives it a leading position among the countries of

1 Europe and America. Its influence in present inter-
2 national political affairs cannot be ignored even
3 by the League."

4 I omit the remainder of that paragraph and
5 go to page 2 at the top:

6 "As a result of the presidential election
7 in November last year, the Republican Party was
8 defeated in a landslide which brought President
9 Roosevelt and the Democratic Party into power.
10 Although there are some elements in our country who
11 seem to expect that the Japan policy of the new
12 American administration, which was installed on 4
13 March this year, will incline to develop in a manner
14 favorable to Japan, a change in basic policy cannot
15 possibly be expected in the light of the fact that
16 the fundamental Far Eastern policy of the United
17 States has consistently been pursued in accordance
18 with the principle of the Open Door advocated and
19 established by John Hay in 1899, together with the
20 principle of territorial integrity of China and the
21 principle of international pacifism condemning the
22 use of armed force, founded upon the Nine-Power and
23 Kellogg-Briand pacts."

25

1 I drop down to the last paragraph of the same
2 page:

3 "At no time have Japanese-American relations
4 been as tense as they are now. The entire United States
5 fleet is concentrated in the Pacific and it does not
6 appear likely that any part of it will be returned to
7 the Atlantic. In view of the fact that there are many
8 in the United States who oppose an economic embargo --
9 advocated by some elements -- for the reason that such
10 action would inevitably lead to war between the United
11 States and Japan, the adoption of such a measure is very
12 unlikely. However, a resolution has recently been pre-
13 sented to Congress proposing the granting of authority
14 to the President to place in cooperation with other
15 countries, an embargo on the export of arms and muni-
16 tions. It is generally observed that this proposal will
17 ultimately be passed in view of the fact that the United
18 States Government desires it. Such being the situation,
19 if things are left as they are any development might
20 unexpectedly arise. There is even a danger of war if,
21 for example, a local incidental clash between Japanese
22 and American forces should occur in North China.

23 "With regard to the prospects of a war between
24 the United States and Japan, which is much talked about,
25 there is a faction in Japan which urges that if war were

to be fought with the United States, the present would
offer the best chance, because as a result of the London
Naval Treaty the ratio of naval strength between the two
countries will become unfavorable to Japan after 1936.
If, however, such a war broke out and Japan succeeded
in her operations, captured the Philippines and destroyed
the American fleet after drawing it into Japanese home
waters, it is clear enough that this alone would not
mean that a fatal blow had been dealt to the United
States such as would force it to surrender; it is hardly
possible to capture Hawaii and the American mainland.
Japan, at any rate, might win local battles in the Far
East, but little if anything could be expected in the
way of victory and advantage outside the Far East. The
possibility is great that as an inevitable consequence
we would be involved in a protracted war which would be
unfavorable to Japan. Furthermore, it is difficult to
expect, in the present state of international relations,
that the United States would be our only antagonist; the
attitude of Great Britain and France in such case is un-
predictable, and they might act together against Japan
(cf.(3))."

THE PRESIDENT: We will recess for fifteen
minutes.

(Whereupon, at 1445, a recess

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1 was taken until 1500, after which the proceed-
2 ings were resumed as follows:)

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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now resumed.

3 THE PRESIDENT: I read now the rules as to
4 final arguments, summations adopted by a majority of
5 the Tribunal.

6 The following rules will apply to final argu-
7 ments, summations:

8 A. Immediately following the close of the
9 evidence, the prosecution will deliver its summation.

10 B. After the summation of the prosecution,
11 the defense may present argument on general questions
12 followed by the argument in the individual cases.

13 C. The prosecution may reply.

14 D. The original of each summation shall be
15 filed with the General Secretary of the Tribunal and
16 shall be made part of the transcript of proceedings.

17 E. In reading their summations, counsel will
18 omit (a) references to exhibit and document numbers and
19 pages of the transcript which may be made by way of
20 footnotes or otherwise, and (b) such details of events
21 and facts the reading whereof may reasonably be dis-
22 pensed with or which may conveniently be set forth in
23 appendices.

24 F. Repetitious arguments and repetitious state-
25 ments of fact will be omitted.

It is desired that the summations be typed
1 with quarter margins and double spacing.

2 Evidence in Mitigation:

3 The Tribunal will permit the accused to offer
4 evidence in mitigation. Such evidence may be offered
5 immediately after all other evidence is received.

6 Evidence as to character will not be received.

7 major Blakeney.

8 MR. BLAKENEY: I resume reading from exhibit
9 3609A. I am on page 3, the second paragraph, the
10 fifth line from the bottom thereof:

11 "Therefore, from our viewpoint, a Japanese-
12 American war should by all means be avoided. From the
13 viewpoint of the United States, she does not gain much
14 either in such a war in view of the difficulties in
15 forcing the surrender of Japan by means of force.

16 "In short, any idea of trying to monopolize
17 the Pacific is equally unrealistic whether considered
18 from the American or the Japanese standpoint. It is
19 to be expected as a matter of course that the United
20 States would not countenance the establishment of a
21 Japanese hegemony over all of the Far East. Inasmuch
22 as the actual interests of the United States in the
23 Far East consist essentially of commerce and capital
24 investments, there is conceivably room to moderate the

American idea of moral guardianship over China. It is
1 therefore essential from this point of view that we
2 persuade the United States to reconsider its Far
3 Eastern policy. In other words, the basis of our
4 policy toward the United States should be to avoid war
5 and to have that country reconsider and revise its Far
6 Eastern policy.

"Japanese-American relations should be thoroughly studied from all angles and any measures which would contribute to the prosecution of this basic policy should be carried out to the end that unnecessary conflicts may be avoided and any obstacles in the way of better feeling may be removed, thus to restore stability in the Pacific area. This must be the urgent task of Japanese diplomacy and to it our full efforts must be devoted. As to concrete steps for the improvement of Japanese-American relations, it is necessary first of all to have the United States reconsider her China policy. For this purpose it is essential that the foundations of a really independent Manchukuo be established, and that she be led to observe as much as possible the principle of the Open Door and equal opportunity, and that it be made clear that Japan entertains no territorial or political ambitions in any other area except Manchukuo. Furthermore, steps

should be taken to urge the United States at this time
1 to remove the discriminatory anti-Japanese clause in
2 its immigration law, which is a blot on Japanese-
3 American relations, and to adopt an equitable quota for
4 Japan. In view of American suspicions of Japanese
5 territorial ambitions toward the Philippines, to which
6 the grant of independence has recently been extended by
7 the United States Congress, an agreement should be con-
8 cluded between the United States and Japan guaranteeing
9 Philippine neutrality provided the United States will
10 not use the islands as a naval base. However, since
11 these measures are not possible of immediate realization,
12 it is proposed as an appropriate step first of all that
13 a treaty of arbitration and a treaty of mediation be
14 concluded for the purpose of making relations between
15 the two countries normal."

17 From there I go to page 5, paragraph 3:

18 "In conclusion, it would be extremely diffi-
19 cult to come to an agreement on a treaty of arbitration,
20 inasmuch as the United States would insist on exclud-
21 ing domestic matters and the Monroe Doctrine from the
22 application of the treaty, whereas a treaty of media-
23 tion would have a better chance of success though it
24 would encounter difficulties. It is suggested, there-
25 fore, that a treaty of mediation be first concluded.

It is further considered to be contributory to the
1 bringing about of normal relations between the two
2 countries to have silk and cotton placed on the free
3 list and to conclude an agreement for reciprocal tariff
4 rates on certain specified items as a means of stabil-
5 izing Japanese-American commercial relations.

6 "(2) Great Britain.

7 *Among our international relationships, that
8 with Great Britain constitutes one of the most import-
9 ant. The British Empire, being in possession in the
10 Orient of India, Australia and New Zealand, as well as
11 the strategic points of Singapore and Hong Kong, and
12 having established strong economic groundwork in China
13 in advance of other powers, has occupied for a number
14 of years a position of importance in Oriental problems.
15 In the past, the development of Japanese-British
16 relationships has seemed to have a close connection
17 with our national fortune and will continue so in
18 future as well."

19 And I go now to page 8, paragraph 3:

20 "The problem now confronting Japan is to pur-
21 sue our Manchurian policy and adjust our relationship
22 with China. It will take a considerable time to solve
23 it, and in the meantime we have to keep good relations
24 with other Powers. Great Britain not only has by far

the greatest interests in China, but plays a leading
1 role in international political affairs. She is the
2 first country with whom cooperation is to be expected,
3 in view of her position in the Far East as well as of
4 our past relationships. Although some sections in
5 Japan talk about the revival of the Anglo-Japanese
6 Alliance, a study of the situation which led to its
7 abrogation will show that such a revival cannot be
8 hoped for. Nor is the restoration of Anglo-Japanese
9 cooperation with respect to the China problem a matter
10 to be easily achieved. However, in view of the fact
11 that Japan and Great Britain have many common interests
12 in China, sufficient room should be found for coopera-
13 tion with regard to the settlement of Far Eastern
14 questions, especially that of China proper. In order
15 to realize this, it would be reasonable and proper to
16 endeavor to make Great Britain understand thoroughly
17 the fundamental lines of our Manchurian policy; to
18 respect Britain's rights and interests in China, there-
19 by eliminating causes of conflict; to cultivate an
20 atmosphere which would be conducive to Anglo-Japanese
21 cooperation; and on the other hand to urge her to help
22 us in improving our relations with the United States."

23
24 Thence I go to page 11, the last paragraph:
25 "France is not responsive to our friendly

attitude toward her because she has first to take into
consideration her relations with Britain and America,
with whom Japan is not quite in harmony. In order to
promote friendly relations with France, therefore, we
must first improve our relationship with Britain and
America."

And now, from page 14, paragraph 3:

Section "(5) Netherlands.

"The Netherlands has vast colonial possessions
in the East and is necessarily greatly interested in
Far Eastern problems. When the Four-Power Pact was
concluded at the time of the Washington Conference,
the Japanese Government, in compliance with the request
of the Netherlands Government, pledged, through our
official communication of 5 February 1922, to guarantee
its rights over Dutch colonial possessions in the
Pacific. In spite of our pledge, however, the Dutch
have always been under the impression that Japan might
be entertaining some ambitions toward their island
possessions. In connection with this matter, Prince
KONOYE, as president of the Japan-Dutch East Indies
Association, has recently submitted a recommendation
to the Foreign Minister. In view of the possible
arising of a feeling of uneasiness over the future of
friendship and economic relations between Japan and

the Dutch East Indies, as a result of the unstable
international political situation caused by Japan's
withdrawal from the League, the Prince suggests that
some diplomatic steps should be taken at this time to
allay apprehensions -- e.g., conclusion of a treaty
of arbitration and mediation with the Netherlands and
the Dutch East Indies. It is highly advisable that
our government endeavor to promote amity with the
Dutch by clearing away all misgivings, and at the same
time declare to the world our sincere desire and in-
tention of maintaining peace in the Pacific, of keeping
it always quiet and true to its name.

"Furthermore, our relations with the Dutch
East Indies and Dutch Borneo have always been important
in the geographical, historical and economic sense.
Our economic relations with the Dutch East Indies
especially are becoming ever closer year by year, and
our trade and investments there promise to grow in the
future." I omit the next two sentences, which contain
figures, and continue: "It is therefore only proper
and appropriate that we should by our actions eradicate
the misgivings of the Dutch and promote our economic
relations with them,

"The Japanese Government is now negotiating
with the Netherlands Government, at the latter's initia-

1 tive, the conclusion of treaties of arbitration and
2 mediation. In view of the situation set forth above,
3 we should strive earnestly for the successful consumma-
4 tion of the present negotiations. Furthermore, if the
5 Netherlands should propose the conclusion of a treaty
6 similar in nature to the Four-Power Pact concerning
7 the status quo in the Pacific, about which SAITO, our
8 Minister to the Netherlands, has submitted his opinion
9 to the government, we should readily respond to her
10 offer since it would be helpful in eliminating Dutch
11 suspicions and in making clear to the world our desire
12 for peace in the Pacific."

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From there I go to page 26, paragraph 4:

"As stated in A(1), the basic policy toward the United States should seek to obtain American reconsideration of their Far Eastern policy and to prevent war. As the United States does not desire the exercise by Japan of absolute superiority over the entire Far East, Japan should not, on her own part, make this her actual policy in the foreseeable future. Our concern is the development of Manchuria and Mongolia, whereas the actual desire of the United States is to promote markets and develop enterprises in China and other parts of the Far East. This being the case, the interests of the two countries could be adjusted if the principle of the Open Door and equal opportunity were realized in the Far East.

"As American public opinion is generally ready to accept Japan's occupying a superior position in the Far East, we should endeavor to make America understand the present situation in Manchuria and Mongolia. In China proper, we should cooperate in the development of that country with other Powers, especially the United States and Great Britain. As a concrete step toward stabilizing relations between Japan and the United States and establishing the

1 fundamental policy already referred to, it is neces-
2 sary to push forward efforts to conclude the treaties
3 of arbitration and mediation proposed by the United
4 States."

5 I omit the next two paragraphs and continue:
6 "Lastly, regarding our relations with Great
7 Britain. From former times, that country has not
8 only had enormous stakes in China, but, from the
9 fact that India is her lifeline, it has been essential
10 for her to give no little consideration to the main-
11 tenance of friendly relations with Japan. On the
12 other hand, Britain's world position in the Far East
13 ranks second to that of the United States. As she
14 has many interests in China which are common with our
15 own, room for collaboration between us is great as
16 compared with other countries."

17 I stop my reading for the time being at that
18 point.

19 I next offer in evidence defense document
20 No. 2915, the affidavit of the witness MORISHIMA,
21 Morito.

22 THE PRESIDENT: Admitted on the usual terms.

23 CLERK OF THE COURT: Defense document 2915
24 will receive exhibit No. 3624.

25 (Whereupon, the document above

referred to was marked defense exhibit

No. 3624 and received in evidence.)

1 MR. BLAKENEY: I read exhibit No. 3624
2 which, omitting the formal parts, is as follows:
3 "1. I entered the service of the Foreign
4 Ministry in 1919, and returned from Berlin as First
5 Secretary of Embassy in August 1936. Shortly there-
6 after, I was dispatched to China to inspect the
7 situation there after the Cheng-tu incident. In
8 the middle of October of the same year I was ordered
9 to serve in the Bureau of East Asiatic Affairs, and
10 in December to assume the duties of Director of that
11 Bureau. My duties required me to keep in touch with
12 Mr. TOGO, and I naturally had chances to exchange
13 views with him frequently. When Chang Hsueh-liang
14 attempted to recover the Chinese Eastern Railway by
15 force of arms, causing complications between China
16 and the Soviet Union during the period from summer to
17 winter of 1929, I was Consul at Mukden, and was dis-
18 patched, together with Mr. TOGO, to Harbin for a
19 month or so. In addition, we worked in close connec-
20 tion in the negotiations for purchase of the Chinese
21 Eastern Railway: Mr. TOGO, as Director of the Bureau
22 of European-Asiatic Affairs, was in charge of the
23 negotiations at Tokyo, while I, as Consul-General at
24
25

1 Harbin, dealt with Soviet Consul-General Mikhail
2 Slavsky to settle the problem and various questions
3 attending it. I was accordingly in a position which
4 enabled me to get a most true and correct knowledge
5 of the thoughts and actions of Mr. TOGO.

6 "2. When I assumed the office of Acting
7 Director of the Bureau of East Asiatic Affairs the
8 negotiations for adjustment of diplomatic relations
9 between Japan and China, which had been opened with
10 the Cheng-tu incident as a start, had come to a
11 standstill owing to the outbreak of the Sui-yuan
12 incident. In the meantime, the Japanese-German Anti-
13 Comintern Pact had provoked the Soviet Union to
14 refuse the execution of the Japanese-Soviet Fisheries
15 Treaty which we had been at much pains to conclude.
16 The United States and Britain also seemed to be un-
17 favorably disposed to the Pact. The international
18 position of Japan was indeed a difficult one. With
19 respect to this international situation Mr. TOGO's
20 opinions, as he told them to me directly, were to the
21 following effect:

22 "A) As to the conclusion of the Japanese-
23 German Anti-Comintern Pact, his personal opinion was
24 that he did not think it proper to set a political
25 agreement against an ideology; and that, in principle,

he could not agree to taking such measures, though
1 it seemed that it was unavoidable in consideration of
2 the then circumstances.

3 "B) The Japanese-German Anti-Comintern Pact,
4 in Mr. TOGO's opinion, would not necessarily strengthen
5 the international position of Japan; on the contrary,
6 he was afraid that it might weaken it. And, for that
7 reason, he thought it necessary to carry on negotia-
8 tions for the adjustment of diplomatic relations
9 between Japan and Britain prior to, or at any rate
10 simultaneously with, those between Japan and Germany.
11 He considered it necessary also that a Japanese-
12 Soviet nonaggression pact and a Japanese-American
13 arbitration treaty be sought.

15 "C) To secure perfect understanding between
16 Japan and Britain, he maintained that the problems of
17 China must necessarily be settled.

18 "3. The above opinions of Mr. TOGO gradually
19 saturated various departments of the Government. In
20 the meantime, an understanding was reached between the
21 Governments of Japan and Britain, and careful consider-
22 ation was also being given to an understanding between
23 Japan and the United States. By the spring of 1937 a
24 policy was established that the Anglo-Japanese and the
25 Sino-Japanese negotiations should be carried on

simultaneously, in consideration of their inseparable
1 relation. It was because of his strong feeling that
2 there was this inseparable relation that Mr. TOGO,
3 despite the fact that the Government organization
4 confided China affairs to the Bureau of East Asiatic
5 Affairs, and that the Director of the European-
6 Asiatic Bureau participated in them only indirectly,
7 advocated earnestly and often the policy which was
8 eventually adopted, of concurrent Anglo-Japanese and
9 Sino-Japanese settlements.

"4. The chief subjects of the Anglo-Japanese negotiations were to be a) the problem of China; 2) the adjustment of Japanese and British commercial interests in the markets of the world; and 3) the question of the international money market.
16 Britain, however, would not easily be convinced of Japan's true intention by mere promises; it was necessary to show her sincerity by concrete actions, and for that purpose radical alteration of Japanese policy toward China was requisite. It was therefore decided that certain specific, familiar matters should be first taken up for discussion with China; then, when the atmosphere between Britain and Japan should have improved as a result of such discussions with China, adjustment of general diplomatic relations should be

worked for. When the subjects for negotiation with
1 China were under discussion within the Japanese
2 Government, Mr. TOGO made great efforts, both official-
3 ly and privately, to persuade the Army and the Navy
4 to agreement, with a view to contributing to the
5 success of the Anglo-Japanese negotiations. It was
6 quite impossible to expect smooth progress of the
7 negotiations unless perfect understanding on the part
8 of the military authorities in China was obtained;
9 and for that purpose the Foreign, War and Navy
10 Ministries dispatched representatives to China to
11 explain the policy of the Government and have frank
12 exchanges of views with those military authorities.
13 I was dispatched from the Foreign Ministry and,
14 accompanied by Colonel SHIBAYAMA of the War Ministry
15 (the Navy Ministry sent Lieutenant-Commander FUJII
16 separately), visited Shanghai, Nanking, Peking and
17 Hsingking, and succeeded, in Hsingking, in obtaining
18 the consent of Chief of Staff TOJO of the Kwantung
19 Army. The policy of the Japanese Government thus
20 established, instructions were sent to Ambassador
21 YOSHIDA in London, and preparatory consultations were
22 being carried on between the Foreign Ministry in
23 Tokyo and Ambassador YOSHIDA in England, when the
24 Marco Polo Bridge Incident of July 1937 occurred,

frustrating all hopes of the Anglo-Japanese and Sino-Japanese negotiations.

"5. On the occasion of the Soviet-Chinese complications of 1929 Mr. TOGO, who had been dispatched to North Manchuria for more than a month and had acquired full knowledge of the importance of the Manchurian question through his own experiences there, considered it urgently necessary to settle, promptly and peacefully, through negotiation with Chang Hsueh-liang, the various problems arising in Manchuria. He strongly recommended that policy to the then Foreign Minister, Count MAKINO, and to other influential persons in and out of office.

"6. As to the purchase of the Chinese Eastern Railway, there was at first strong opposition on the part of the Army and the South Manchurian Railway Company. Moreover, various things occurring successively in the course of the negotiations tended to hinder their smooth progress. In spite of all such difficulties, however, Mr. TOGO's zeal in the matter was unchanging from first to last. He beat down opposition, and did his best to remove the obstacles to the negotiations, the success of which was indeed largely due to the efforts, both overt and covert, of Mr. TOGO."

I wish to return to exhibit 3609-A, the
1 1933 document, to read one paragraph, this being
2 the first full paragraph on page 27 relative to
3 naval disarmament:

"In the light of present international
4 developments, a divergence of opinion is likely to
5 occur between the two countries at the naval dis-
6 armament conference scheduled to be held in 1935.
7 If matters were left as they stand, agreement on dis-
8 armament would naturally fail to be reached, and as
9 a result the agreement for the maintenance of the
10 status quo with respect to fortifications in the
11 Pacific would be abrogated. The consequences which
12 would ensue--an armaments race, leading to a Japanese-
13 American war--would ultimately bring about a world
14 war. How unfavorable would be the results to Japan
15 has already been pointed out. We on our part should
16 make every effort to have the United States reconsider
17 her Far Eastern policy and, at the same time, recon-
18 sider our own disarmament policy."

I now offer in evidence defense document
21 No. 2921, being the affidavit of INOUE, Takajiro.

22 THE PRESIDENT: Mr. Brannon.

23 MR. BRANNON: I understand that Japanese
24 counsel for the accused OKA desire to cross-examine

this witness, INOUE.

1 THE PRESIDENT: We will receive the
2 affidavit subject to any objections. Then we will
3 decide on your application whether you are entitled
4 to cross-examine.
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M 1 MR. BRANNON: After the reading of the
O 2 affidavit we apply for the right to cross-examine,
R 3 Mr. President?

& 4 THE PRESIDENT: You may, yes.

W 5 MR. BLAKENEY: May the document be admitted?

H 6 THE PRESIDENT: It is admitted on the usual
A 7 terms.

CLERK OF THE COURT: Defense document 2921
E 8 will receive exhibit No. 3625.

9 (Whereupon, the document above
M 10 referred to was marked defense exhibit
11 No. 3625 and received in evidence.)

12 MR. BLAKENEY: I shall read the exhibit.

13 "1. I entered the Foreign Ministry in 1924,
14 and served as secretary in the Bureau of European-
15 American Affairs (later the Bureau of European-Asiatic
16 Affairs) from 1931 to 1938, during which period I was
17 in charge of business concerning naval disarmament
18 under Director TOGO Shigenori from 1934 to 1937, and
19 attended the London Naval Conference of 1935-36 as
20 one of the retinue of the Japanese delegate, leaving
21 Tokyo in November 1935 and returning to Japan in Feb-
22 ruary 1936. At present I am Chief of the Economic
23 Section, Central Liaison Office.

24 "2. The Japanese Foreign Ministry attached

1 importance to the Naval Disarmament Conference of
2 1934-35 in consideration of the situation within and
3 out of Japan, not to speak of the eager desire on the
4 part of the Japanese Government to maintain the peace
5 of the world and to lighten the national burden. It
6 therefore assigned the Fifth Section of the Investiga-
7 tion Bureau exclusively to the transaction of disarma-
8 ment problems, and ordered the members of that section
9 to serve concurrently in the Bureau of European-
10 Asiatic Affairs under the direction of Director TOGO.
11 I was then a member of the Fifth Section, Investigation
12 Bureau, and served concurrently in the Bureau of
13 European-Asiatic Affairs. It was a matter of common
14 knowledge within the Foreign Ministry at that time that
15 Director TOGO was well versed in disarmament problems
16 and had an enthusiasm for the success of the Disarmament
17 Conference. The Chief of the Fifth Section of the
18 Investigation Bureau was at first Mr. YAMAGATA Kiyoshi,
19 who was then succeeded by Mr. KATO Denjiro. I was in
20 charge of the business concerning disarmament under
21 the two section chiefs and was often called before
22 Director TOGO to receive his orders. He revealed to
23 me his own opinions as to disarmament, in accordance
24 with which knowledge so acquired directly from Director
25 TOGO, and from the two section chiefs in the course of

1 official duties, I hereby depose as follows:

2 "3. In connection with the attitude of the
3 Japanese Government toward the Preliminary Naval
4 Disarmament Conference of 1934, the two outstanding
5 points which became the subjects of discussion were
6 (A) the common upper limit system of disarmament; and
7 (B) the abrogation of the Washington Naval Treaty,
8 both of which were advocated by the Navy.

9 "4. As to the proposal of the common upper
10 limit, the Japanese Government had accepted the ratio
11 system of disarmament in the Washington and London
12 Naval Treaties. Moreover, it had even advanced, at
13 the General Disarmament Conference held at Geneva in
14 1932, a proposal accepting the ratio system. In con-
15 sideration of these facts as well as the international
16 and the internal situation, it was too sudden a leap
17 to advocate the establishment of the common upper
18 limit. Furthermore, the plan was apparently advan-
19 tageous exclusively for Japan. There was little hope
20 that the agreement of the other Powers could be obtained,
21 and Mr. TOGO even foresaw the danger that it might
22 give rise to doubt on the part of the United States
23 and Britain as to the peaceful intention of Japan,
24 effacing, as a result, all hopes for the realization of
25 disarmament. And it would be quite useless, it was

considered, to make a proposal which would not be
1 accepted by the United States and Britain. From the
2 above point of view Director TOGO took a firm stand
3 against the common upper limit plan, and endeavored
4 to find a meeting point between the Navy and the
5 Foreign Ministry in some other plan. The Navy, however,
6 did not yield. The negotiations lasted for two or
7 three months, but Director TOGO, adhering to his con-
8 viction, opposed the Navy plan to the last. The nego-
9 tiations thus failed to reach an agreement after all.
10 In the meantime, the opening of the preliminary con-
11 ference was drawing near. Thereupon, the heads of the
12 government decided finally to adopt the Navy plan, com-
13 pelling Director TOGO to yield to the decision.

15 "5. Director TOGO considered the abrogation
16 of the Washington Naval Treaty an exceedingly serious
17 question for Japan, and feared that it would surely
18 stimulate the national sentiments of the Powers. The
19 conclusion would be different if that treaty were to
20 be replaced by some other new treaty immediately,
21 but otherwise chaotic conditions and naval competition
22 would be the sure result, which could aggravate the
23 international situation and, in the long run, lead to
24 war. His opinion, however, was not adopted, owing
25 to the persistent objection on the part of the Navy.

"6. In considering the instructions to be given to the Japanese delegates to the Naval Disarmament Conference of 1935 (and also thereafter), discussion was had chiefly upon the question whether Japan should accept qualitative disarmament or the obligation to notify the naval construction program in case the Japanese points were not approved. The Navy opposed acceptance on the ground that to do so would be nonsense unless quantitative limitation was established and, moreover, destructive to the national defense of Japan. Director TOGO, however, insisted upon accepting at least these, as he considered that they would make not a little contribution to the realization of ideal disarmament and would be of service in removing the sense of uneasiness prevailing among the participant Powers. But, as to these questions, his opinions were not brought to realization.

"7. With regard to qualitative disarmament, Director TOGO's opinion was that the limitation of ship sizes and gun calibers alone would be sufficiently effective.

"8. As to notification of naval construction program, he tried to persuade the Navy into agreement, pointing out that the Navy would have to make necessary explanations before the Diet, as well as the Finance

Ministry, in connection with the estimates for the
1 naval construction, and that, this being so, it would
2 be impossible in effect to keep the program secret
3 from other countries. But the Navy insisted upon
4 rejecting it, suggesting that the maintenance of se-
5 crecy was not impossible in Japan.

6 "9. Director TOGO took a serious view of the
7 influence which the termination of the disarmament
8 treaty would exert upon the peace of the world, though
9 it was of course true that he hoped for the substantial
10 solution of the disarmament question partly because
11 he wished thereby to lighten the burdens of the various
12 nations. Especially, it was his heart's desire to
13 restore the international credit which Japan had lost,
14 by managing to bring the disarmament conference to suc-
15 cessful conclusion, and thus rescue Japan from the for-
16 lorn state she was then in. Quite naturally, therefore,
17 he adhered most persistently to his own stand, and often
18 had heated discussions with Director YOSHIDA of the
19 Bureau of Naval Affairs of the Navy Ministry.
20

21 "10. As to the reply of the Japanese Govern-
22 ment made in February 1938 in connection with notifica-
23 tion of naval construction programs, Mr. TOGO had
24 nothing to do with it, as he had already been trans-
25 ferred to the post of Japanese Ambassador to Germany
when it was issued."

THE PRESIDENT: Mr. Brannon.

1 MR. BRANNON: I restate our position, that
2 we desire to cross-examine this witness. I regret that
3 I wasn't in court this morning --

4 THE PRESIDENT: On behalf of which accused is
5 it?

6 MR. BRANNON: The accused OKA.

7 THE PRESIDENT: Well, will you point out just
8 how he has been prejudiced by any statement made in
9 that affidavit?

10 MR. BRANNON: Must we reveal ahead of time the
11 purpose of our cross-examination, Mr. President?

12 THE PRESIDENT: Well, you must get leave. If
13 we can see nothing prejudicing OKA without your assist-
14 ance, well, I don't suppose there is anything that you
15 need be afraid of.

16 This is how the rule reads: "Upon completion
17 of all direct examination, if the witness has given
18 evidence against the interests of any accused, counsel
19 for such accused may cross-examine the witness."

20 MR. BRANNON: My colleagues point out to me,
21 Mr. President, that under Article 15 of the Charter,
22 paragraph e, the prosecution and each accused may ex-
23 amine each witness and each accused who gives testimony.

24 THE PRESIDENT: Maybe in the ordinary course,

1 but these rules, one of which I have just read, were
2 submitted by the defense. They were agreed upon. You
3 see, if we let you cross-examine any witness at all
4 without any justification, which could only arise if
5 something prejudicial had been said to you, this trial
would be protracted beyond endurance.

6 MR. BRANNON: We are near the end, Mr. Presi-
7 dent, of the individual defenses and I understand this
8 has been our practice up to this morning.
9

10 THE PRESIDENT: No, I raised it yesterday and
11 I refused two counsel the right to cross-examine because
12 they couldn't show prejudice, and that is the usual
13 practice.

14 MR. BRANNON: That puts a burden, Mr. President,
15 upon the defense counsel to point out to the Tribunal
16 how certain testimony may prejudice their accused.
17

THE PRESIDENT: Well, that is no answer.

18 MR. BRANNON: I haven't finished, Mr. President.
19 It enables the prosecution to see exactly the point we
20 are trying to make.
21

22 THE PRESIDENT: Well, I just read to you what
23 the rule says and if you are allowed to cross-examine
24 now you are allowed to defy the rule. That is all I
25 can say. And that rule comes from both sides. We have
placed no limit on further examination. But cross-

examination is a different thing. It involves that
1 the person cross-examined has said something hostile.
2 I am talking about the rule now.

I want you to point out to me how the rule
3 applies in your favor. It may be on the facts you are
4 entitled to cross-examine. I haven't questioned that.
5 I have merely asked you to indicate how you are pre-
6 judiced. And you are not embarrassed by being asked
7 to point out in the affidavit something which is hostile
8 to you.

10 MR. BRANNON: I may be, Mr. President. The
11 Japanese counsel are the ones primarily concerned with
12 the cross-examination of this witness.

13 THE PRESIDENT: The right cannot be founded
14 on the difference between American and Japanese counsel.

15 MR. BRANNON: The accused OKA, as I understand
16 it, was in the Navy Ministry at this time. He ques-
17 tions the interpretation of this witness on the Japanese
18 naval action taken at the Washington-London Naval Con-
19 ference. We don't know whether this witness contends
20 he is an expert, but if he does we contest that point.
21 We don't know whether he is stating what he, himself,
22 thought or what the accused TOGO thought. They also
23 contest the fact that the accused TOGO was a naval
24 expert or in a position to adequately criticize the

1 Navy's viewpoint on the Conferences at that time. I
2 believe that is the essence of it.

3 THE PRESIDENT: Well, you may have given a
4 reason to the satisfaction of a majority of my colleagues.
5 He will be called for cross-examination. But I have
6 to decide whether the cross-examination is within the
7 scope of the affidavit, and I would like some assist-
8 ance.

9 Is he in the witness' room, Major Blakeney?
10 If he is, let him be brought in.

11 MR. BLAKENEY: Yes, sir, the witness is in
12 attendance.

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1 TAKAJIRO INOUE, called as a witness on
2 behalf of the defense, being first duly sworn,
3 testified through Japanese interpreters as
4 follows:

5 THE PRESIDENT: Your right to appear for OKA
6 or to cross-examine on his behalf is audibly challenged
7 by a number of Members of the Court, so you had better
8 make your position clear on that.

9 MR. BRANNON: Mr. President, I am under the
10 impression that I am American counsel for the accused
11 SHIMADA, OKA and SATO. I believe the record will so
12 recite. OKA and SATO each have another American counsel.
13 SHIMADA has just one.

14 THE PRESIDENT: We will take your word for it.
15

16 CROSS-EXAMINATION

17 BY MR. BRANNON:

18 Q Mr. Witness, where are you employed at the
19 present time?

20 A I am presently Chief of the Economic Section
21 of the Central Liaison Office.

22 Q That is what is left over of the Foreign
23 Ministry of Japan?

24 A It is an outer bureau of the Foreign Office.

25 Q TOGO has been your superior officer, or rather

1 was your superior officer for some length of time, is
2 that true?

3 A Yes.

4 Q And anything that you could say to help him
5 or in his behalf you would gladly do it, would you not?

6 A So long as it is in accordance with the facts
7 I should be glad to do so according to justice.

8 THE PRESIDENT: Is that an invitation or a
9 challenge?

10 MR. BRANNON: It is a challenge, Mr. President.
11 In my country we always have a right to show the con-
12 nection between the witness and the accused, referring
13 to credibility.

14 Q Mr. Witness, on page 2 of your affidavit you
15 state, paragraph 4, sentence 2, "Moreover, it had even
16 advanced, at the General Disarmament Conference held
17 at Geneva in 1932, a proposal accepting the ratio
18 system." Further you comment then that, "In consider-
19 ation of these facts as well as the international and
20 the internal situation, it was too sudden a leap to
21 advocate the establishment of the common upper limit."

22 First, Mr. Witness, do you consider yourself
23 as a naval expert on disarmament?

24 A As a Foreign Office secretary -- as one of the
25 Foreign Office secretaries most concerned with the

1 problem of naval disarmament I consider myself one of
2 the most well versed members of the Foreign Office in
3 such affairs.

4 Q Then you certainly should know what actually
5 happened at the Geneva Conference in 1932, shouldn't
6 you?

7 A At the time of the Geneva -- the disarmament
8 conference of 1932, I had not yet been charged with
9 the problem of naval disarmament and, therefore, I was
10 not thoroughly versed in the details of that problem.

11 Q Well, then, your statement in paragraph 4 on
12 page 2 of your affidavit is your own opinion or Mr.
13 TOGO's?

14 A It was the opinion of Director TOGO at the
15 time and I, myself, held the same opinion.

16 Q Well, now, don't you know that the Japanese
17 proposed a common upper limit at that time at that con-
18 ference and that they confined it to B class cruisers,
19 destroyers and submarines of the five great powers?

20 A My belief is that the Japanese made a proposal
21 for the establishment of a ratio in regard to battle-
22 ships and A class cruisers.

23 Q Yes, you say that, but what about the common
24 upper limit idea? Didn't it crop up too then?

25 A For warships of the B class cruiser type and

INOUE

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1 lower I believe a common upper limit in regard to
2 number was proposed.

3 Q Then it wasn't a new idea, was it, Mr. Witness?

4 A In that sense as you say.

5 THE PRESIDENT: We will adjourn until half
6 past nine tomorrow morning.

7 (Whereupon, at 1600, an adjournment
8 was taken until Wednesday, 17 December 1946,
9 at 0930.)

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